

**EXHIBIT A to the Declaration Of Laura W. Sawyer In Further  
Support Of Debtors' Motion For An Order Excluding The  
Testimony Of Daniel Curry And Jeffrey Hasterok**

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| <p>IN THE UNITED STATES BANKRUPTCY COURT<br/>SOUTHERN DISTRICT OF NEW YORK<br/>Chapter 11<br/>CASE NO. 08-13555 (JMP)<br/>Jointly Administered</p> <p>IN RE: LEHMAN BROTHERS<br/>HOLDINGS, INC. et al.</p> <p>Debtors,</p> <p>-----</p> <p>VIDEOTAPED TRANSCRIPT OF<br/>DEPOSITION OF PETER SHAPIRO</p> <p>TRANSCRIPT of the stenographic<br/>notes of the proceedings in the<br/>above-entitled matter, as taken by and<br/>before TAB PREWETT, a Registered<br/>Professional Reporter, a Certified<br/>Shorthand Reporter, a Certified LiveNote<br/>Reporter, and Notary Public, held at the<br/>Offices of JONES DAY, 222 East 41st Street,<br/>New York, New York, on Thursday, October<br/>16, 2014, commencing at 10:07 a.m.</p>                                    | <p>1 Peter Shapiro<br/>2 P R O C E E D I N G S<br/>3 THE VIDEOGRAPHER: This is tape<br/>4 number one of the videotaped<br/>5 deposition of Mr. Peter Shapiro in the<br/>6 matter of In Re: Lehman Brothers<br/>7 Holdings, Inc., et al., Debtors, in<br/>8 the United States Bankruptcy Court,<br/>9 Southern District of New York, case<br/>10 number 08-13555 (JMP).<br/>11 This deposition is being held<br/>12 at Jones Day, 222 East 41st Street, on<br/>13 October 16, 2014, at approximately<br/>14 10:07 a.m.<br/>15 My name is Ilitch Peters from<br/>16 the firm of Elisa Dreier Reporting<br/>17 Corporation, and I am the legal video<br/>18 specialist. The court reporter is<br/>19 Tab Prewett in association with Elisa<br/>20 Dreier Reporting Corporation, located<br/>21 at 950 Third Avenue, New York,<br/>22 New York.<br/>23 For the record will counsel<br/>24 please introduce themselves.<br/>25 MS. SAWYER: Lauri Sawyer and</p> |
| <p>1<br/>2 A P P E A R A N C E S:<br/>3<br/>4 JONES DAY<br/>5 BY: LAURA W. SAWYER, ESQ.<br/>6 REBEKAH BINGER, ESQ.<br/>7 222 East 41st Street<br/>8 New York, New York 10017-6702<br/>9 Attorneys for Lehman Brothers<br/>10<br/>11 PACIFICA LAW GROUP<br/>12 BY: PAUL J. LAWRENCE, ESQ.<br/>13 1191 2nd Avenue<br/>14 Seattle, Washington 98101-2945<br/>15 Attorneys for Washington TSA<br/>16<br/>17 ALSO PRESENT:<br/>18<br/>19 Ilitch Peters, Videographer<br/>20<br/>21 Thomas Hommel, Esq.<br/>22 Counsel<br/>23 Office of the General Counsel<br/>24 Lehman Brothers Holdings, Inc.<br/>25 1271 Avenue of the Americas<br/>New York, New York 10020<br/><br/>Dean Melchior, Lehman Brothers<br/><br/>Mr. Hommel and Mr. Melchior<br/>left at the first break.</p> | <p>1 Peter Shapiro<br/>2 Rebekah Binger from Jones Day on<br/>3 behalf of the Debtors.<br/>4 MR. LAWRENCE: Paul Lawrence<br/>5 for the Washington State Tobacco<br/>6 Settlement Authority.<br/>7 THE VIDEOGRAPHER: Now, will<br/>8 the court reporter please swear in the<br/>9 witness.<br/>10 P E T E R S H A P I R O,<br/>11 having been sworn by the notary public to<br/>12 testify to the truth, testified as follows:<br/>13 DIRECT EXAMINATION<br/>14 BY MS. SAWYER:<br/>15 Q Good morning, Mr. Shapiro.<br/>16 A Good morning.<br/>17 Q I know you have been deposed<br/>18 before, but I want to remind you of a few<br/>19 things before we get started. First, we<br/>20 need to speak slowly and carefully for the<br/>21 court reporter, who is trying to take down<br/>22 everything we say.<br/>23 As part of that you should try<br/>24 to wait until I finish a question before<br/>25 you answer. And likewise I will try to</p>       |

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| <p>1 Peter Shapiro<br/>2 wait until you finish an answer before I<br/>3 ask my next question.<br/>4 You also need to answer my<br/>5 questions out loud, even though we do have<br/>6 a videographer today, so that the court<br/>7 reporter can take your answers down.<br/>8 Do you understand?<br/>9 A Yes.<br/>10 Q And if you don't understand a<br/>11 question I ask, I'd ask you to tell me and<br/>12 ask me to rephrase it. If you answer one<br/>13 of my questions, I am going to assume that<br/>14 you understood what I meant, so please be<br/>15 careful.<br/>16 A Thank you for the warning.<br/>17 Q And if you need a break at any<br/>18 time, please let me know, and we can take<br/>19 one. I would ask that you answer any<br/>20 pending question before we take a break<br/>21 unless it involves a matter of privilege.<br/>22 Understood?<br/>23 A Yes.<br/>24 (Exhibit No. Shapiro 32, E-Mail<br/>25 chain, top E-Mail dated 1/9/09 from</p>                  | <p>1 Peter Shapiro<br/>2 A Correct.<br/>3 Q The second sentence, you say:<br/>4 "My colleague James Vergara<br/>5 will be doing the modeling on the<br/>6 Agreement" -- with a capital "A."<br/>7 Do you see that?<br/>8 A Yes.<br/>9 Q What does that mean that<br/>10 Mr. Vergara would be doing the modeling on<br/>11 the agreement?<br/>12 A When you are looking for<br/>13 valuation, you use a model, and he would be<br/>14 the one operating the model.<br/>15 Q Okay. And what model was<br/>16 Mr. Vergara going to be using?<br/>17 A Whatever would be appropriate.<br/>18 We had a variety of models.<br/>19 Q And had you had a discussion<br/>20 with Mr. Vergara at this time about what<br/>21 model would be appropriate?<br/>22 A No.<br/>23 Q Did you discuss at any time<br/>24 with Mr. Vergara what model would be<br/>25 appropriate for determining the value of</p>                    |
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| <p>1 Peter Shapiro<br/>2 Bob Cook to Peter Shapiro, Subject:<br/>3 TSA, Bates Nos. TSA 42725 to 42727, is<br/>4 marked by the reporter for<br/>5 identification.)<br/>6 Q The court reporter has handed<br/>7 you a document that has been marked as<br/>8 Shapiro Exhibit 32. For the record, it's a<br/>9 multi-page E-Mail, Bates stamped TSA 042725<br/>10 through 042727. I will give you a chance<br/>11 to look at the document. My first question<br/>12 is:<br/>13 Do you recognize the document?<br/>14 A Let me look through it before I<br/>15 answer that, please. And I should read<br/>16 this in reverse order, I assume, right.<br/>17 Q That's generally the way it<br/>18 makes the most sense to people.<br/>19 A Yes. I finished reading it,<br/>20 yes.<br/>21 Q Start with the bottom E-Mail<br/>22 that's not redacted, so the one on the last<br/>23 page, at 2:58 p.m., from you to Mr. Rich,<br/>24 Bob Cook, and James Vergara.<br/>25 Do you see that one?</p> | <p>1 Peter Shapiro<br/>2 the RFA?<br/>3 A I may have. I can't remember.<br/>4 Q Did you leave it up to<br/>5 Mr. Vergara to select the model for the<br/>6 agreement?<br/>7 A Yes, subject to my looking at<br/>8 the output and assumptions and stuff like<br/>9 that.<br/>10 Q And why did you leave it up to<br/>11 Mr. Vergara to select the model to be used<br/>12 to value the RFA?<br/>13 A I don't operate models myself.<br/>14 That's what we have a team to do.<br/>15 Q And that's what you had<br/>16 Mr. Vergara to do?<br/>17 A He was part of that team. Yes.<br/>18 And on this specific agreement, he was the<br/>19 guy charged with it.<br/>20 Q And just to make sure we are<br/>21 clear, when I say "RFA," I am referring to<br/>22 the reserve fund agreement between<br/>23 Washington State Tobacco Settlement<br/>24 Authority and Lehman Brothers.<br/>25 Do you understand that?</p> |

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| <p>1 Peter Shapiro</p> <p>2 A We have had the good luck of</p> <p>3 talking about this before. So, yes, I do.</p> <p>4 Q Okay. Thank you.</p> <p>5 If you look at the E-Mail on</p> <p>6 the page TSA 42726 at the bottom of the</p> <p>7 page, which is another E-Mail from you to</p> <p>8 Bob Cook on December 21 at 8:16 p.m., do</p> <p>9 you see where I am at?</p> <p>10 A Yes, I do.</p> <p>11 Q In the last paragraph of that</p> <p>12 E-Mail, the third sentence, you say:</p> <p>13 "My colleague James Vergara is</p> <p>14 doing the financial analysis parentheses he</p> <p>15 spent some time on the Lehman swap desk and</p> <p>16 knows the Agreement" -- again, with a</p> <p>17 capital "A" -- "very well."</p> <p>18 Do you see that?</p> <p>19 A Yes.</p> <p>20 Q What had you told TSA at this</p> <p>21 time about Mr. Vergara's experience with</p> <p>22 reserve fund agreements, again?</p> <p>23 A I think I told them literally</p> <p>24 what it says in this E-Mail.</p> <p>25 Q And --</p> | <p>1 Peter Shapiro</p> <p>2 worked on the Lehman desk in connection</p> <p>3 with this RFA?</p> <p>4 A Not with this specific one. In</p> <p>5 fact, I know for certain -- I don't think</p> <p>6 he was on the Lehman desk at the time this</p> <p>7 agreement was entered into.</p> <p>8 Q Did you at any time ever tell</p> <p>9 TSA that he did have personal knowledge of</p> <p>10 the Washington RFA from his time at Lehman?</p> <p>11 MR. LAWRENCE: Sorry. Did you</p> <p>12 say he did or he did not?</p> <p>13 A Did or didn't? Yeah.</p> <p>14 Q That he did.</p> <p>15 A That he did have personal</p> <p>16 knowledge from the inception of the</p> <p>17 agreement?</p> <p>18 Q No. That based upon -- let me</p> <p>19 ask the question again.</p> <p>20 Did you ever tell Washington</p> <p>21 TSA that Mr. Vergara had personal knowledge</p> <p>22 of the agreement, whether at the inception</p> <p>23 or some other time, based upon his</p> <p>24 experience at the Lehman desk?</p> <p>25 A No.</p> |
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| <p>1 Peter Shapiro</p> <p>2 A If it weren't the exact same</p> <p>3 words, it was the same meaning, the same</p> <p>4 import.</p> <p>5 Q And did you tell Washington TSA</p> <p>6 Mr. Vergara had experience with the</p> <p>7 specific RFA at issue?</p> <p>8 A This RFA?</p> <p>9 Q Yes.</p> <p>10 A No.</p> <p>11 Q You did use the capital "A"</p> <p>12 "Agreement" in this E-Mail referring to</p> <p>13 that RFA, correct?</p> <p>14 A Correct.</p> <p>15 Q And you said that Mr. Vergara</p> <p>16 knows the agreement very well?</p> <p>17 A Right.</p> <p>18 Q So you were referring to --</p> <p>19 what are you referring to when you refer to</p> <p>20 that?</p> <p>21 A Agreements of this type and</p> <p>22 style. So looking at this agreement, it</p> <p>23 wouldn't be something that would be</p> <p>24 unfamiliar to him.</p> <p>25 Q You aren't implying that he</p>   | <p>1 Peter Shapiro</p> <p>2 Q And if you look at the second</p> <p>3 paragraph of that E-Mail, you say:</p> <p>4 "We have quoted our fees as per</p> <p>5 market convention in terms of basis point</p> <p>6 of yield value."</p> <p>7 Do you see that?</p> <p>8 A Correct.</p> <p>9 Q "And for your information, our</p> <p>10 analysis of the agreement shows that one</p> <p>11 basis point is equal to approximately</p> <p>12 \$105,000"?</p> <p>13 A Right.</p> <p>14 Q How was that determined that</p> <p>15 one basis point equaled approximately</p> <p>16 \$105,000?</p> <p>17 A From the model that James would</p> <p>18 have been using.</p> <p>19 Q So that would have been a</p> <p>20 valuation or determination made by</p> <p>21 Mr. Vergara?</p> <p>22 A It wouldn't have been a</p> <p>23 valuation. It would have been a</p> <p>24 determination. Yes.</p> <p>25 Q But he was the one responsible</p>  |

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| <p>1 Peter Shapiro<br/>2 for determining the value of basis points?<br/>3 A Correct.<br/>4 Q And you believe that<br/>5 Mr. Vergara determined the value of a basis<br/>6 point accurately?<br/>7 A My sense, Lauri, is this was a<br/>8 preliminary determination, and that that<br/>9 '01 value, when I have looked at subsequent<br/>10 documents, doesn't -- it looks like it's a<br/>11 little bit off to me.<br/>12 Q But you were basing your fees<br/>13 on that calculation determined by<br/>14 Mr. Vergara at this time, correct?<br/>15 MR. LAWRENCE: Object. Object<br/>16 to the form.<br/>17 Q You can answer.<br/>18 A We weren't basing our fees on<br/>19 it. We were basing a proposal on it. As<br/>20 you can see by the subsequent E-Mails, that<br/>21 was not the fee arrangement that was<br/>22 accepted.<br/>23 Q But you quoted your fees in<br/>24 terms of basis points, and the basis points<br/>25 was based on the determination made by</p> | <p>1 Peter Shapiro<br/>2 A It would have been done by<br/>3 James or another member of the staff.<br/>4 Q Do you recall the value of a<br/>5 basis point?<br/>6 A Yes.<br/>7 Q What is that?<br/>8 A The value of a basis point<br/>9 depended upon the point in time that you<br/>10 looked at it. The value at the inception<br/>11 of the agreement in '02 would have been one<br/>12 number. If we had -- if you had looked at<br/>13 it on the -- you know, based upon the, you<br/>14 know, the market environment that existed<br/>15 in December of '08 would have been another<br/>16 number.<br/>17 In March of '09 when the actual<br/>18 termination took place, it would have been<br/>19 still another number.<br/>20 And as you will recall from<br/>21 prior depositions and because of your<br/>22 familiarity with this case, the value of an<br/>23 '01 would change based upon the correction<br/>24 that was brought to our attention in the<br/>25 final maturity date of the agreement</p>  |
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| <p>1 Peter Shapiro<br/>2 Mr. Vergara, correct?<br/>3 A In that initial proposal,<br/>4 correct.<br/>5 Q So at this time you believed<br/>6 this to be an accurate determination as to<br/>7 the value of a basis point?<br/>8 A I believed it to be a<br/>9 preliminary determination.<br/>10 Q And at what point did you<br/>11 revisit the determination of the value of a<br/>12 basis point?<br/>13 A I can't recall.<br/>14 Q But you have revisited it?<br/>15 A Yes.<br/>16 Q Okay. Did you personally<br/>17 revisit the issue of the value of a basis<br/>18 point?<br/>19 A How does one "personally<br/>20 revisit" the value of a basis point?<br/>21 Q Are you the one that<br/>22 recalculated what you believed a basis<br/>23 point to be worth?<br/>24 A No.<br/>25 Q Who did that?</p>  | <p>1 Peter Shapiro<br/>2 because that moves the '01.<br/>3 Q Perhaps you should explain to<br/>4 me how you determined the value of a basis<br/>5 point?<br/>6 A The value of a basis point is<br/>7 determined by a model. The inputs into<br/>8 determining the value of one basis point<br/>9 is:<br/>10 How much would the value of the<br/>11 transaction in question -- and this would<br/>12 be any type of transaction -- change based<br/>13 upon shifting interest rates across the<br/>14 yield curve by one basis point?<br/>15 Now, you can think of this in<br/>16 relatively simplified ways. This is --<br/>17 this is not rocket science by any means.<br/>18 You can think of it this way, and that is:<br/>19 For -- if the agreement never<br/>20 changed in terms of its principal value,<br/>21 its size, what we usually refer to in the<br/>22 swap world as its notional amount, if it --<br/>23 so if that amount didn't change, you<br/>24 wouldn't have to factor in amortization or<br/>25 anything like that -- for each year, one</p> |

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| <p>1 Peter Shapiro<br/>2 basis point would be worth something.<br/>3 Let's simplify it just to<br/>4 illustrate, okay, on this. If the<br/>5 agreement had a size of \$10,000, okay,<br/>6 1 percent of \$10,000 would be \$100. One<br/>7 basis point would be 1/100th of that or \$1.<br/>8 Okay. So for each year,<br/>9 \$10,000 in '01 would be \$1. If the<br/>10 agreement went on for 15 years, it would be<br/>11 worth \$15 gross. Okay. That is 15 times<br/>12 one would get you to \$15.<br/>13 But to determine the DV '01,<br/>14 dollar value of an '01, you would have to<br/>15 take the present value of that \$15, and<br/>16 carry it back to right now.<br/>17 A dollar right now on that<br/>18 first year's 10,000 is worth about dollar<br/>19 because there is not much of a present<br/>20 value factor in the first year. But a<br/>21 dollar in year 15 is worth considerably<br/>22 less.<br/>23 So for that reason, it would<br/>24 not equal 15, but, let's say<br/>25 hypothetically, it would equal ten, which</p>                             | <p>1 Peter Shapiro<br/>2 example, on inception, or December of 2008,<br/>3 or March of 2009, correct?<br/>4 A Correct.<br/>5 Q And you didn't have any trouble<br/>6 calculating the DV '01 at any of those time<br/>7 periods?<br/>8 A What do you mean by "trouble"?<br/>9 Q I mean, you had the available<br/>10 information to be able to determine the DV<br/>11 '01 at those time periods?<br/>12 A As you are aware, initially we<br/>13 had wrong information.<br/>14 Q But the "wrong information"<br/>15 being the maturity date of the RFA?<br/>16 A That's correct.<br/>17 Q But other than that, did you<br/>18 have any difficulty determining the value<br/>19 of a basis point in December of 2008?<br/>20 A We should not have. No.<br/>21 Q Okay. Or --<br/>22 A Again, you know, again, I don't<br/>23 run the model. I am telling you how the<br/>24 model -- the fundamentals of how the model<br/>25 works. But there shouldn't be any problem</p>  |
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| <p>1 Peter Shapiro<br/>2 just by the seat of the pants calculation<br/>3 is about right. Typically, 15 years PV is<br/>4 back to about ten times.<br/>5 Q How do you determine the<br/>6 present value of those 15 years in your<br/>7 example?<br/>8 A The normal -- the norm is to<br/>9 use a discount rate. And that discount<br/>10 rate can vary based upon your inputs. But<br/>11 the normal thing you are going to look at<br/>12 is the market's cost of funds, which is<br/>13 deemed to be LIBOR based upon the LIBOR<br/>14 swap curve.<br/>15 So the discounting based upon<br/>16 that curve going out -- if you had a<br/>17 payment in each one of 15 years in my<br/>18 illustration, you would apply a different<br/>19 discount rate based upon what the LIBOR<br/>20 swap rate would do -- kind of a cumbersome<br/>21 thing to sit and do on a scratch pad, but a<br/>22 model does it like this for you.<br/>23 Q And you said that you could --<br/>24 you determined the DV '01 or the value of a<br/>25 basis point at various points in time, for</p> | <p>1 Peter Shapiro<br/>2 determining an '01.<br/>3 You can get a wrong output,<br/>4 just so you know. It's very frequently the<br/>5 case that, when we are checking price on a<br/>6 transaction in a live market as well as<br/>7 just a hypothetical, and checking price<br/>8 against one of the big swap dealer firms,<br/>9 whether it be JP Morgan or Goldman Sachs or<br/>10 Deutsche Bank, that one of our first stops<br/>11 in making sure that both firms are seeing<br/>12 things the same is that we confirm the '01<br/>13 values against each other.<br/>14 So before we do any kind of<br/>15 valuation work or pricing work, our first<br/>16 thing is to say what's the '01 you're<br/>17 coming up with per the agreement. And if<br/>18 we have a difference on that, we know there<br/>19 is an input problem, a typographical error,<br/>20 a modeling issue of some kind.<br/>21 But that's usually step number<br/>22 one in the ABCs of pricing a derivative<br/>23 transaction.<br/>24 And there are differences,<br/>25 Lauri. You do pick up errors there. So I</p> |

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| <p>1 Peter Shapiro<br/>2 am not saying we always get it right<br/>3 100 percent of the time. But, you know,<br/>4 that's one of the things you check.<br/>5 Q If you look at the E-Mail at<br/>6 the top of page 42726, which is an E-Mail<br/>7 from Bob Cook to you and others.<br/>8 A That's the one that begins at<br/>9 the bottom of 42725?<br/>10 Q Right. The first line of the<br/>11 E-Mail is:<br/>12 "Peter, thanks for preparing<br/>13 this."<br/>14 A Yes.<br/>15 Q And he says:<br/>16 "We may not have been clear<br/>17 enough in our earlier communications."<br/>18 Do you see that?<br/>19 A Yes.<br/>20 Q The last paragraph of this<br/>21 E-Mail, he says:<br/>22 "Any possible replacement<br/>23 process for the agreement is down the road<br/>24 and will have to be undertaken once we have<br/>25 a definitive settlement."</p>   | <p>1 Peter Shapiro<br/>2 you a document that has been marked as<br/>3 Shapiro Exhibit 33, which is a two-page<br/>4 document, Bates stamped TSA 42818 through<br/>5 42819.<br/>6 It appears to be draft<br/>7 memorandum from the Swap Financial Group,<br/>8 dated December 22, 2008, with some black<br/>9 lining on that. Have you had a chance to<br/>10 look at this?<br/>11 A Yes, I have.<br/>12 Q And was this prepared -- who<br/>13 prepared this document?<br/>14 A I can't tell from looking at<br/>15 it.<br/>16 Q Did you -- did Swap Financial<br/>17 Group prepare it?<br/>18 A I believe so.<br/>19 Q Do you know if you prepared it?<br/>20 A I'd be -- as I said, I can't<br/>21 tell from looking at it. I would be<br/>22 speculating, but, yeah, it could have been<br/>23 me. It could have been James.<br/>24 Q And these were the services<br/>25 that Swap Financial was proposing to do for</p>     |
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| <p>1 Peter Shapiro<br/>2 Do you see that?<br/>3 A Yes.<br/>4 Q So at this point in time<br/>5 Washington TSA was not looking to replace<br/>6 the agreement?<br/>7 A I don't think you can say that<br/>8 from this E-Mail.<br/>9 Q They weren't looking to engage<br/>10 you to replace the agreement?<br/>11 MR. LAWRENCE: Object. Calls<br/>12 for speculation.<br/>13 A You know, I would have to look<br/>14 back at the attachment that would have<br/>15 accompanied the earlier E-Mail. You know,<br/>16 otherwise, I would just be speculating.<br/>17 (Exhibit No. Shapiro 33,<br/>18 Memorandum dated 12/22/09 from Peter<br/>19 Shapiro to Tobacco Settlement<br/>20 Authority, Bob Cook, Subject: Reserve<br/>21 Fund Agreement Advisory Services,<br/>22 Scope of Services, Bates Nos. TSA<br/>23 42818 to 42819, is marked by the<br/>24 reporter for identification.)<br/>25 Q The court reporter has handed</p> | <p>1 Peter Shapiro<br/>2 Washington TSA in December of 2008?<br/>3 A When you are referring to<br/>4 "these"?<br/>5 Q The services reflected in this<br/>6 draft memorandum.<br/>7 A With the black lining or<br/>8 without the black lining?<br/>9 Q What did you initially propose<br/>10 to Washington TSA to be the services to be<br/>11 provided by Swap Financial Group?<br/>12 A Do you have another exhibit<br/>13 that shows the initial proposal?<br/>14 Q No.<br/>15 A Then I would have to just<br/>16 assume, looking at this -- and I am saying<br/>17 this is an assumption -- that it would have<br/>18 been what existed prior to the black<br/>19 lining.<br/>20 Q So you would have been<br/>21 proposing the services that Swap Financial<br/>22 would provide to TSA, being, one,<br/>23 valuation, two, strategy, three,<br/>24 replacement, as the initial proposal made<br/>25 by Swap Financial?</p> |

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| <p>1 Peter Shapiro</p> <p>2 A Yes, and that makes sense</p> <p>3 obviously from the E-Mail that -- the</p> <p>4 dialogue that is going on within the</p> <p>5 E-Mails in the prior exhibit that you</p> <p>6 referenced.</p> <p>7 Q Right, that Swap Financial</p> <p>8 Group had initially proposed one of the</p> <p>9 things it could do for Washington TSA would</p> <p>10 be to give them a replacement transaction?</p> <p>11 A Correct.</p> <p>12 Q And Mr. Cook advised you that</p> <p>13 Washington TSA wasn't interested in using</p> <p>14 Swap Financial's services in December of</p> <p>15 2008 to secure a replacement transaction?</p> <p>16 MR. LAWRENCE: Object.</p> <p>17 Argumentative.</p> <p>18 A I think it's clear from what he</p> <p>19 says in his E-Mail. I can read that out</p> <p>20 loud if you want.</p> <p>21 Q What is clear from his E-Mail?</p> <p>22 A The response to your question.</p> <p>23 Q That Washington TSA did not</p> <p>24 want to use Swap Financial's services to</p> <p>25 find a replacement transaction in December</p> | <p>1 Peter Shapiro</p> <p>2 being one of the services to be provided?</p> <p>3 A You asked me that question</p> <p>4 earlier.</p> <p>5 Q Did Swap Financial Group revise</p> <p>6 the memorandum, or did TSA revise the</p> <p>7 memorandum?</p> <p>8 A I believe we revised it.</p> <p>9 Q And you replaced the -- you</p> <p>10 replaced the word "replacement" with the</p> <p>11 phrase "negotiation and litigation</p> <p>12 assistance"?</p> <p>13 A That's what -- that's what the</p> <p>14 black line shows.</p> <p>15 Q Consistent with the E-Mail in</p> <p>16 Shapiro Exhibit 32 as to what Mr. Cook</p> <p>17 wanted you to do?</p> <p>18 A Being responsive to the</p> <p>19 client's request.</p> <p>20 Q And going back to Mr. Cook's</p> <p>21 E-Mail, the first paragraph, he says in the</p> <p>22 third sentence:</p> <p>23 "PFM was the TSA's financial</p> <p>24 advisor on the initial bond transaction</p> <p>25 included the bidding and the selection of</p> |
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| <p>1 Peter Shapiro</p> <p>2 of 2008?</p> <p>3 MR. LAWRENCE: Objection.</p> <p>4 Argumentative.</p> <p>5 A Rather than use your words, I</p> <p>6 would use his words here.</p> <p>7 Q That "any possible replacement</p> <p>8 process for the agreement would be</p> <p>9 undertaken once we have a definitive</p> <p>10 settlement"?</p> <p>11 A That's what his E-Mail says.</p> <p>12 Q And you understood --</p> <p>13 A He doesn't say he doesn't want</p> <p>14 to use Swap Financial Group to do it.</p> <p>15 Q You understood that Washington</p> <p>16 TSA wasn't interested in a replacement</p> <p>17 transaction until after it had a definitive</p> <p>18 settlement with Lehman?</p> <p>19 MR. LAWRENCE: Objection.</p> <p>20 Asked and answered. Argumentative.</p> <p>21 And calls for speculation.</p> <p>22 A I would just say I understood</p> <p>23 what the words of this E-Mail say.</p> <p>24 Q And so you -- did you revise</p> <p>25 Shapiro Exhibit 33 to remove replacement as</p>   | <p>1 Peter Shapiro</p> <p>2 Lehman as the forward purchase agreement</p> <p>3 provider. They continue to serve US in the</p> <p>4 role of FA."</p> <p>5 Do you see that?</p> <p>6 A Yes.</p> <p>7 Q Did you understand in</p> <p>8 December 2008 that Washington TSA was still</p> <p>9 using PFM for financial advisory services?</p> <p>10 A That's what this says clear as</p> <p>11 a bell.</p> <p>12 Q Okay. And you were aware of</p> <p>13 that in December of 2008?</p> <p>14 A I was aware --</p> <p>15 MR. LAWRENCE: You're asking</p> <p>16 him he independently from what was in</p> <p>17 the E-Mail?</p> <p>18 Q I want to confirm that you did</p> <p>19 know PFM was serving as TSA's financial</p> <p>20 advisor in December of 2008.</p> <p>21 MR. LAWRENCE: Okay.</p> <p>22 Objection. Argumentative and</p> <p>23 cumulative and asked and answered.</p> <p>24 (There was a discussion off the</p> <p>25 record.)</p>  |

7 (Pages 280 to 283)



| Page 284   | Page 286  |
|--|---|
| <p>1 Peter Shapiro<br/>2 MR. LAWRENCE: Argumentative,<br/>3 cumulative, and asked and answered.<br/>4 The last two the same objection.<br/>5 A I would ask you to clarify.<br/>6 Are you saying prior to this E-Mail, based<br/>7 upon this E-Mail, subsequent to this<br/>8 E-Mail?<br/>9 Q When did you learn that PFM was<br/>10 serving as Washington TSA'S financial<br/>11 advisors?<br/>12 A I can't recall.<br/>13 Q But you certainly knew it as of<br/>14 this date?<br/>15 A Exactly. I certainly would<br/>16 have known it from reading this E-Mail.<br/>17 Q Did you ask Mr. Cook in or<br/>18 around December of 2008 if PFM had done a<br/>19 valuation of the reserve fund agreement for<br/>20 Washington TSA?<br/>21 A I can't recall. I don't<br/>22 believe so.<br/>23 Q Did you ask Mr. Cook at any<br/>24 time if PFM had done a valuation of the<br/>25 reserve fund agreement for Washington TSA?</p>             | <p>1 Peter Shapiro<br/>2 Financial at this time?<br/>3 A We had -- we had attempted to<br/>4 do some estimates on the value.<br/>5 Q And how did Swap Financial<br/>6 Group go about doing estimates of the value<br/>7 prior to January 9, 2009?<br/>8 A The initial estimate would be<br/>9 something you could do just from your<br/>10 knowledge of the market on the face of it.<br/>11 And that is you could look at the agreement<br/>12 with the stated fixed rate that Lehman had<br/>13 committed to pay Washington of 4.484<br/>14 percent --<br/>15 (There was a discussion off the<br/>16 record.)<br/>17 A -- 4.484 percent, and know that<br/>18 in the current market, with rates much<br/>19 lower, that the agreement would be in the<br/>20 money to Washington, i.e., that Lehman<br/>21 would owe money on the agreement --<br/>22 Q So your --<br/>23 A -- just simply because rates<br/>24 had dropped sharply.<br/>25 Q So Swap Financial Group's</p> |
| Page 285   | Page 287  |
| <p>1 Peter Shapiro<br/>2 A I don't believe so.<br/>3 Q Did you ask anybody at<br/>4 Washington TSA that question?<br/>5 A I don't believe so.<br/>6 Q If you go to the very first<br/>7 E-Mail on the very first page, the third<br/>8 paragraph from Mr. Cook says -- refers<br/>9 to -- it says:<br/>10 "In the meantime, K&amp;L Gates has<br/>11 drafted a motion for the court which I have<br/>12 attached. They will also be looking for a<br/>13 signed declaration from us as well as you<br/>14 stating that the agreement is, quote, in<br/>15 the money to us."<br/>16 Do you see that?<br/>17 A Yes.<br/>18 Q And prior to January 9, 2009,<br/>19 had Swap Financial Group done a valuation<br/>20 of the reserve fund agreement for<br/>21 Washington TSA?<br/>22 A We -- I believe we had done<br/>23 preliminary valuation work.<br/>24 Q And how did -- what preliminary<br/>25 valuation work had been done by Swap</p> | <p>1 Peter Shapiro<br/>2 initial assessment prior to January 9,<br/>3 2009, was an estimate based upon looking at<br/>4 the guaranteed rate and current rates in<br/>5 the market?<br/>6 A I said that was one way you<br/>7 could do it.<br/>8 Q How did Swap Financial Group do<br/>9 this initial estimate?<br/>10 A That was the initial thing when<br/>11 we looked at the agreement. You know,<br/>12 any -- anybody who looked at the agreement<br/>13 in our shop would have come to that<br/>14 conclusion. To try to refine the number<br/>15 would take more modeling.<br/>16 Q Did anybody look at any forward<br/>17 curves to make that initial estimate that<br/>18 Washington TSA would be in the money?<br/>19 A The models incorporate all<br/>20 market information, including forward<br/>21 curves.<br/>22 Q But this estimate was done not<br/>23 using a model, correct?<br/>24 A Which estimate?<br/>25 Q Prior to January 9, 2009, that</p>          |

8 (Pages 284 to 287)

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1 Peter Shapiro

2 you are discussing with me.

3 A I would have to look back at  
4 the record to look at when we -- when we  
5 first indicated any numbers to Washington  
6 TSA or if you have, in any of the documents  
7 which you have got, something that  
8 indicates a number.

9 Q At this point, Mr. Cook is  
10 asking you for a declaration stating the  
11 agreement is in the money. Do you believe  
12 you had told Mr. Cook by this point that  
13 Washington TSA was in the money?

14 A Yes.

15 Q Okay. And that would have been  
16 based on your initial estimate, or it would  
17 have been based on a model?

18 A I can't recall it. Again, I  
19 have to look at the documents to say when  
20 the first, you know, model -- even rough  
21 model base number was. I think you have  
22 got those documents.

23 Q And when you say "those  
24 documents," are you referring to screen  
25 shots from Swap Financial's Principia

1 Peter Shapiro

2 Q Are you aware of any other  
3 models that any staff members of Swap  
4 Financial Group might have used to  
5 determine the value of the Washington TSA  
6 RFA.

7 A When you say "might have  
8 used" --

9 Q Well, you are saying that they  
10 principally would have used Principia, but  
11 there might have been something else. What  
12 would these other things have been that  
13 were available to them?

14 A The firm has available to it  
15 principally two other modeling systems it  
16 uses it. But I am not -- here, I'm talking  
17 about is general practice, not the  
18 specifics in this case.

19 Q What other models systems does  
20 Swap Financial Group use?

21 A We use Excel as a -- you know,  
22 Excel is often used as what I refer to as a  
23 scratch pad for trying to confirm --  
24 confirm numbers and look at what things  
25 would approximately be.

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1 Peter Shapiro  
2 software?

3 A No, I am more referring to any  
4 kind of internal -- you know, any kind of  
5 internal or external communications that  
6 you have. But you also have -- you know, I  
7 know you also have an abundant number of  
8 screen shots. You can probably see it  
9 there, too.

10 Q And when you are referring to  
11 the model that Swap Financial Group used,  
12 that is the Principia software that we have  
13 the screen shots from?

14 A It's Principia.

15 Q That's Principia?

16 A That's one. And then we, you  
17 know, also can use other systems. But I  
18 think Principia was the -- looking at what  
19 has been produced, you know, again, I  
20 don't -- I don't -- as I explained, I don't  
21 look -- I don't run the model myself. But  
22 based upon what you have seen in the  
23 production, it looks like Principia was the  
24 principal model that the other members of  
25 my staff were using.

1 Peter Shapiro

2 You can, you know, get from a  
3 very simplified to a very robust basis  
4 using Excel, depending upon how much, you  
5 know -- how much -- how much you want to  
6 put into it. But, again, I am speaking in  
7 generalities here, not on a specific case.

8 And then there is also a  
9 Bloomberg-based system called Swap Manager,  
10 and that's -- that's within the Bloomberg  
11 system. And you can set this up and value  
12 it as a swap using Swap Manager. You can  
13 set a transaction of this type up.

14 So I'm talking in generalities  
15 here.

16 Q And have you checked Swap  
17 Financial's records to see if any Excel  
18 spreadsheets showing a modeling or a value  
19 of the Washington RFA?

20 A I either checked myself or  
21 caused others to check.

22 Q So if there were such Excel  
23 spreadsheets, they would have been produced  
24 in this litigation subject to certain  
25 privileges?

9 (Pages 288 to 291)

Page 292

1 Peter Shapiro  
2 A Yes.  
3 Q And what about Swap Manager?  
4 Did anybody take any steps to see if there  
5 were any records within Swap Manager  
6 showing that it had been used for  
7 determining the value of the Washington TSA  
8 RFA?  
9 A I think that would have been  
10 covered under your prior question. You  
11 didn't isolate out saying not Swap Manager.  
12 Q My prior question was looking  
13 for Excel spreadsheets.  
14 A Just Excel?  
15 Q Yes.  
16 (There was a discussion off the  
17 record.)  
18 Q My prior question was simply  
19 asking if somebody had looked to see if  
20 there were any Excel spreadsheets in Swap  
21 Financial's possession reflecting a  
22 valuation or analysis of the Washington  
23 RFA.  
24 And you said that those had  
25 been looked for and produced if

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1 Peter Shapiro  
2 appropriate, correct?  
3 A Correct.  
4 Q Now, I am asking:  
5 Did anybody look at Bloomberg  
6 Swap Manager to see if there was any  
7 indication that it had been used to  
8 determine any value or analysis of the  
9 Washington RFA?  
10 A Yes.  
11 Q And if there were any records  
12 reflecting that, they would have been  
13 produced?  
14 A Correct.  
15 Q And do you recall whether there  
16 were any Swap -- any evidence that Swap  
17 Manager had been used to conduct any  
18 analysis of the Washington RFA?  
19 A I don't recall.  
20 Q Who checked Swap Manager to see  
21 if there was any evidence it had been used  
22 for the Washington RFA?  
23 A The person who did the  
24 principal checking and rechecking on  
25 this -- because, you know -- as you know,

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1 Peter Shapiro  
2 Lauri, you have asked this question, many,  
3 many times in many different varieties --  
4 the person who would have -- who would have  
5 done the principal work on that was Lilian  
6 Chern.  
7 Q Looking at Shapiro Exhibit 33,  
8 which is the draft memorandum in the  
9 black-lined, when you proposed to  
10 Washington TSA that you could provide  
11 valuation and strategy and replacement  
12 services to Washington TSA, did you feel  
13 that Swap Financial Group was capable of  
14 providing those services?  
15 A Yes.  
16 Q That it had adequate staff and  
17 information to provide such services?  
18 A Yes.  
19 Q I am handing you a document  
20 that has been marked as Shapiro Exhibit 34,  
21 which, for the record, is a multi-page  
22 E-Mail, Bates stamped TSA 042624 through  
23 042626. The top E-Mail is dated  
24 February 23, 2009. I will give you a  
25 chance to look at this.

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1 Peter Shapiro  
2 (Exhibit No. Shapiro 34, E-Mail  
3 chain, top E-Mail dated 2/23/09 from  
4 Bob Cook to Peter Shapiro, cc to James  
5 Vergara and Debra Stephenson, Subject:  
6 Lehman, Bates Nos. TSA 42624 to 42626,  
7 is marked by the reporter for  
8 identification.)  
9 A I have looked at it.  
10 Q If you look at the second page  
11 of the E-Mail in the middle of the page,  
12 there is an E-Mail from Bob Cook to you on  
13 February 19, 2009, at 12:17 p.m.  
14 Do you see that?  
15 A Yes.  
16 Q And Mr. Cook is asking for  
17 "offline confirmation from you that this  
18 makes sense"; do you see that?  
19 A Yes.  
20 Q Do you recall having a  
21 conversation with Mr. Cook around  
22 February 19, 2009, to give him some  
23 "offline confirmation" about something  
24 related to the valuation of the RFA?  
25 A I can't tell what this is

10 (Pages 292 to 295)

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1 Peter Shapiro  
2 about, so it's very hard to refresh my  
3 recollection on this.  
4 Q You do recall having a  
5 discussion in February of 2009 with  
6 Mr. Cook about the valuation of the RFA?  
7 A No. I don't.  
8 Q You don't have any specific  
9 recollections?  
10 A No, five and a half years ago,  
11 hard to remember.  
12 Q So you don't know what he's  
13 referring to when he is asking if it "makes  
14 sense"?  
15 A No.  
16 Q The court reporter is handing  
17 you a document that has been marked as  
18 Shapiro Exhibit 35, which is, for the  
19 record, Bates stamped TSA 42713 through  
20 42715.  
21 (Exhibit No. Shapiro 35, E-Mail  
22 chain, top E-Mail dated 3/4/09 from  
23 Bob Cook to Peter Shapiro, Subject:  
24 Lehman, Washington State TSA, Bates  
25 Nos. TSA 42713 to 42715, is marked by

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1 Peter Shapiro  
2 the reporter for identification.)  
3 Q It is -- and the top E-Mail is  
4 dated March 4, 2009, at 3:50 p.m. I will  
5 give you a chance to look at this.  
6 A I finished going through it.  
7 Q If you look at the first E-Mail  
8 Mr. Cook is sending to you on March 4,  
9 2009, he says:  
10 "Do you have any concerns  
11 market-wise with fixing the termination  
12 date as of next Wednesday, March 11th?"  
13 Do you see that?  
14 A Yes.  
15 Q Did you have any concerns about  
16 fixing the termination date on March 11,  
17 2009?  
18 A I can't remember. I assume  
19 there -- I don't know -- if you would have  
20 shown me -- if there was a reply from me,  
21 but I can't remember.  
22 Q Do you know what he's asking  
23 about, about whether you have "concerns  
24 market-wise" with fixing the termination  
25 date?

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1 Peter Shapiro  
2 A No.  
3 Q Do you recall having any  
4 discussion with him about any market  
5 concerns about fixing a termination date on  
6 March 11, 2009?  
7 A No.  
8 Q Did you have any concerns about  
9 fixing a -- about having a termination date  
10 on March 11, 2009?  
11 A You mean, are you asking me now  
12 if --  
13 Q Yes.  
14 A -- I can remember five and a  
15 half years ago if I had a concern about  
16 that specific date?  
17 Q Well, sitting here now, do you  
18 have any concerns about a termination date  
19 on March 11, 2009, for any reason?  
20 MR. LAWRENCE: I'm sorry. Are  
21 you asking now, or are you asking  
22 then?  
23 Q I said:  
24 Sitting here now, do you have  
25 any concerns about setting a termination

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1 Peter Shapiro  
2 date of March 11, 2009?  
3 A I can't tell. In order to look  
4 at a market concern on something, you have  
5 to look at calendar information as of that  
6 date, you know, that might create a  
7 concern.  
8 Q What would you need to look at  
9 to see if there was a concern about  
10 March 11, 2009?  
11 A The market was closed.  
12 Q Being like a --  
13 A Holiday.  
14 Q -- bank holiday?  
15 A Yeah.  
16 Q Any other concerns?  
17 A Not that I can think of off the  
18 top of my head. But, normally, when we are  
19 looking on a forward basis at the calendar  
20 for pricing dates, you know, we will look  
21 and see if there are other factors that  
22 could cause a concern.  
23 Given that this is not an  
24 actual trade, but rather a valuation, the  
25 concerns are different than if you are

11 (Pages 296 to 299)

| Page 300   | Page 302   |
|--|--|
| <p>1 Peter Shapiro</p> <p>2 actually trying to put a transaction</p> <p>3 through a market at a specific time or day.</p> <p>4 But, you know, you want to consider various</p> <p>5 factors.</p> <p>6 Q What factors would you want to</p> <p>7 consider for purposes of putting a value on</p> <p>8 a trade?</p> <p>9 A If it was purely for valuation.</p> <p>10 The immediate one I would think is if the</p> <p>11 market was closed, if there would be a</p> <p>12 dearth of information on that date for some</p> <p>13 reason.</p> <p>14 Q So the market would be closed</p> <p>15 for a holiday or maybe a Sunday or</p> <p>16 something like that?</p> <p>17 A Something like that.</p> <p>18 Q Did you ask Mr. Vergara to</p> <p>19 prepare a memorandum reflecting his</p> <p>20 valuation of the RFA?</p> <p>21 A Lauri, let me ask you to</p> <p>22 clarify because, as you know, there are</p> <p>23 multiple versions of memorandums that were</p> <p>24 loss calculations. Are you -- is that what</p> <p>25 you are asking about? Did I ask</p> | <p>1 Peter Shapiro</p> <p>2 and 2350. It appears to be a memorandum</p> <p>3 from you to Bob Cook dated March 30, 2009?</p> <p>4 A I finished going through this.</p> <p>5 Q Was this a document prepared</p> <p>6 initially by Mr. Vergara or by you?</p> <p>7 A By Mr. Vergara.</p> <p>8 Q And do you know if this was the</p> <p>9 first draft of the memorandums that were</p> <p>10 prepared regarding the valuation of TSA</p> <p>11 reserve fund agreement?</p> <p>12 A Do I know if this is the first</p> <p>13 draft of this document or the first draft</p> <p>14 of any type of valuation? I'm not sure</p> <p>15 what you are asking.</p> <p>16 Q There was a memorandum -- a</p> <p>17 series of memoranda that you are referring</p> <p>18 to as "the loss calculation memorandum,"</p> <p>19 correct?</p> <p>20 A Yes.</p> <p>21 Q Do you know if this was the</p> <p>22 first draft of that memoranda?</p> <p>23 A This was not the loss</p> <p>24 calculation memorandum. This was a</p> <p>25 different version that was just looking at</p> |
| Page 301   | Page 303   |
| <p>1 Peter Shapiro</p> <p>2 Mr. Vergara to prepare that memorandum?</p> <p>3 Q I am more talking in general</p> <p>4 terms.</p> <p>5 You asked Mr. Vergara to model</p> <p>6 or value the transaction. Did you ask him</p> <p>7 as part of that process to prepare</p> <p>8 something in writing explaining what he had</p> <p>9 done?</p> <p>10 A Yes, he would do the first cut</p> <p>11 on the -- on those specific memos that I</p> <p>12 referenced.</p> <p>13 Q And those "specific memos"</p> <p>14 being the loss calculation memoranda?</p> <p>15 A Correct.</p> <p>16 (Exhibit No. Shapiro 36,</p> <p>17 Memorandum dated 3/30/09 to Bob Cook</p> <p>18 from Peter Shapiro, Subject:</p> <p>19 Valuation of TSA's RFA with Lehman,</p> <p>20 Bates Nos. SFG 2349 to 2350, is marked</p> <p>21 by the reporter for identification.)</p> <p>22 Q The court reporter has handed</p> <p>23 you for the record a document that has been</p> <p>24 marked as Shapiro Exhibit 36, which is a</p> <p>25 two-page document, Bates stamped SFG 2349</p>         | <p>1 Peter Shapiro</p> <p>2 valuation numbers.</p> <p>3 Q And what's the distinction</p> <p>4 between this version just looking at</p> <p>5 valuation numbers and the loss calculation</p> <p>6 memorandum?</p> <p>7 A The loss calculation memorandum</p> <p>8 was more rigorous.</p> <p>9 Q And what is not rigorous about</p> <p>10 this analysis?</p> <p>11 A It doesn't go through each of</p> <p>12 the components of spread in detail as the</p> <p>13 loss calculation memorandum does.</p> <p>14 Q Is the fundamental methodology</p> <p>15 between this memorandum and the loss</p> <p>16 calculation memorandum the same?</p> <p>17 A The fundamental methodology</p> <p>18 meaning the basic architecture that is not</p> <p>19 looking at what the inputs are into spread</p> <p>20 and the like. Yes.</p> <p>21 Q That you would look by -- you</p> <p>22 would start by looking at the cash flows of</p> <p>23 the reserve fund agreement and analyzing</p> <p>24 those?</p> <p>25 A Correct.</p>   |

12 (Pages 300 to 303)



| Page 304   | Page 306   |
|--|--|
| <p>1 Peter Shapiro</p> <p>2 Q And that's consistent between</p> <p>3 this memorandum and the loss calculation</p> <p>4 memorandum?</p> <p>5 A Yes.</p> <p>6 Q Do you know if a prior version</p> <p>7 of this valuation memo exists?</p> <p>8 A You should have everything.</p> <p>9 Everything should have been produced --</p> <p>10 Q But --</p> <p>11 A -- unless it was -- you know,</p> <p>12 unless it was held back under the privilege</p> <p>13 log.</p> <p>14 Q But sitting here today, do you</p> <p>15 recall an earlier version of this document?</p> <p>16 A I don't, but it's -- you know,</p> <p>17 unless you are saying you have one -- you</p> <p>18 are not trying to spring a trap on me here</p> <p>19 in terms of having one that you are now</p> <p>20 going to produce dramatically and say:</p> <p>21 "How about this?"</p> <p>22 Right?</p> <p>23 Q I don't really have a trap set</p> <p>24 up for this one, but I am just trying to</p> <p>25 confirm with you that you don't recall a</p> | <p>1 Peter Shapiro</p> <p>2 Q I know, but the way this</p> <p>3 process works is I ask you questions.</p> <p>4 A I understand. I was trying to</p> <p>5 get away with asking you a question.</p> <p>6 Q So did you discuss with</p> <p>7 Mr. Vergara before this memorandum was</p> <p>8 drafted regarding the methodology he</p> <p>9 describes in this memorandum?</p> <p>10 A Did I discuss the methodology</p> <p>11 used in this memorandum? Yes.</p> <p>12 Q With Mr. Vergara?</p> <p>13 A Yes.</p> <p>14 Q And you both agreed that it was</p> <p>15 the appropriate methodology used to value</p> <p>16 the reserve fund agreement?</p> <p>17 A In general terms, yes, the</p> <p>18 general architecture, the general approach,</p> <p>19 yes.</p> <p>20 Q And that general approach being</p> <p>21 to model an interest rate swap and analyze</p> <p>22 the cash flows of the reserve fund</p> <p>23 agreement, correct?</p> <p>24 A You are using "analyze the cash</p> <p>25 flow." I would cut -- cut it off and say</p> |
| Page 305   | Page 307   |
| <p>1 Peter Shapiro</p> <p>2 draft prior to this.</p> <p>3 A I don't.</p> <p>4 Q Did you discuss with</p> <p>5 Mr. Vergara the methodology outlined in</p> <p>6 this valuation memorandum before he drafted</p> <p>7 it?</p> <p>8 A You know, I can't tell. Is</p> <p>9 this a -- the draft that went out to</p> <p>10 Washington, or is this a prior draft that</p> <p>11 was reviewed internally? I can't tell by</p> <p>12 reading this.</p> <p>13 Q I don't -- I don't know the</p> <p>14 answer either?</p> <p>15 A You can't tell. Okay.</p> <p>16 And you don't know from what</p> <p>17 you have got that's available to you</p> <p>18 whether this was an attachment to an E-Mail</p> <p>19 that would have gone to Bob Cook because</p> <p>20 that would show that right away?</p> <p>21 Q I don't have such information,</p> <p>22 but I'm not sure you are answering my</p> <p>23 question.</p> <p>24 A No, I was asking you a</p> <p>25 question.</p>  | <p>1 Peter Shapiro</p> <p>2 analyze it as though it were an interest</p> <p>3 rate swap.</p> <p>4 Q Okay. If you look at the third</p> <p>5 paragraph of this memorandum, it starts by</p> <p>6 saying:</p> <p>7 "In order to value the reserve</p> <p>8 fund agreement, we began by analyzing the</p> <p>9 cash flows."</p> <p>10 A Yes.</p> <p>11 Q Do you agree with that</p> <p>12 statement?</p> <p>13 A That you begin by looking at</p> <p>14 it -- what -- the cash flow being one guy</p> <p>15 pays fixed, the other guy pays floating.</p> <p>16 Q And then you model that fixed</p> <p>17 and floating as if it were a swap?</p> <p>18 A Correct.</p> <p>19 Q Now, if you look at the second</p> <p>20 page of this memorandum, the</p> <p>21 next-to-the-last paragraph that</p> <p>22 starts, "Given this dramatic widening," do</p> <p>23 you see that?</p> <p>24 A Yes.</p> <p>25 Q The first sentence is:</p>   |

13 (Pages 304 to 307)

| Page 308   | Page 310   |
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| <p>1 Peter Shapiro<br/>2 "Given this dramatic widening<br/>3 in the credit spreads for municipal tobacco<br/>4 bonds, we believe that the appetite to<br/>5 provide a replacement reserve fund<br/>6 agreement for TSA will be limited at best<br/>7 and likely non-existent."<br/>8 Do you agree with that<br/>9 statement that Mr. Vergara wrote in March<br/>10 of 2009?<br/>11 A I believe, if you look through<br/>12 the record, you will see that later on<br/>13 there is a reworded version of that very<br/>14 sentence.<br/>15 Q So you don't -- you don't agree<br/>16 with that?<br/>17 A I thought we needed to<br/>18 strengthen that sentence, and I put in, I<br/>19 believe, the words, "severely limited."<br/>20 Q Okay. And then the next<br/>21 sentence is:<br/>22 "And replacement counterparty<br/>23 will likely assess the significant credit<br/>24 charge and profit component to step into<br/>25 the shoes of LBSF and face TSA."</p> | <p>1 Peter Shapiro<br/>2 know, initial estimate. As you will see<br/>3 and the record shows, I subsequently came<br/>4 back and sharply questioned that<br/>5 assumption: "Where did it come from," if<br/>6 you remember. You can -- you will see this<br/>7 in the record.<br/>8 Q So this was Mr. Vergara's<br/>9 initial assessment of what the spread to<br/>10 LIBOR should be based upon his experience,<br/>11 correct?<br/>12 A I don't know what he based it<br/>13 on.<br/>14 Q But it was Mr. Vergara's<br/>15 assessment?<br/>16 A Yes.<br/>17 Q And you disagreed with that<br/>18 assessment?<br/>19 A I wanted backup on it. I<br/>20 didn't disagree with it. I said:<br/>21 "How did you get that number?<br/>22 We have got to be rigorous here."<br/>23 Q Did you agree with that number?<br/>24 A I had no basis to say I agreed<br/>25 or disagreed with it without more work</p>  |
| Page 309   | Page 311   |
| <p>1 Peter Shapiro<br/>2 Do you see that?<br/>3 A Yes.<br/>4 Q Do you agree with that<br/>5 statement that Mr. Vergara included?<br/>6 A Yes.<br/>7 Q And then the next sentence --<br/>8 A I would -- you know, I would<br/>9 one qualifier, of course -- "any<br/>10 replacement counterparty" -- if one could<br/>11 be found, which, in the prior sentence, we<br/>12 clearly say it's very, very unlikely.<br/>13 Q And then the last sentence of<br/>14 that paragraph, Mr. Vergara writes:<br/>15 "For these reasons, therefore,<br/>16 we are valuing the floating leg of the swap<br/>17 for TSA's reserve fund agreement at LIBOR<br/>18 minus 1.5 percent."<br/>19 Correct?<br/>20 A Right.<br/>21 Q And did you agree that, for the<br/>22 reasons stated in that paragraph, that the<br/>23 floating leg of the swap should be valued<br/>24 at LIBOR minus 150 basis points?<br/>25 A That was James -- James's, you</p>                               | <p>1 Peter Shapiro<br/>2 being done on it.<br/>3 Q What additional work did you<br/>4 ask Mr. Vergara to do?<br/>5 A I think you will see it in the<br/>6 record.<br/>7 Q But I am asking you to tell me:<br/>8 What additional work did you<br/>9 ask Mr. Vergara to do?<br/>10 A I wanted -- I wanted to look at<br/>11 the spread components in detail.<br/>12 Q And the "spread components"<br/>13 being profit and credit?<br/>14 A Yes, as we have gone over in<br/>15 huge length in prior deposition -- profit,<br/>16 credit, deliverable spread.<br/>17 Q And --<br/>18 A And when we say "profit" and<br/>19 "credit," we are including within that all<br/>20 of the various miscellaneous spread<br/>21 components in terms of the administrative<br/>22 costs the dealer takes on, the hedge costs<br/>23 and the like; so, you know, there is --<br/>24 there is a accumulation of issues that goes<br/>25 into the dealer spread here.</p> |

14 (Pages 308 to 311)

| Page 312   | Page 314   |
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| <p>1 Peter Shapiro<br/>2 Q And at this point in time,<br/>3 Mr. Vergara thought that profit and credit<br/>4 comprised 150 basis points?<br/>5 MR. LAWRENCE: Object to the<br/>6 form of the question. Calls for<br/>7 speculation.<br/>8 A I couldn't read his mind.<br/>9 Q But that's what he wrote here?<br/>10 MR. LAWRENCE: Objection.<br/>11 Argumentative.<br/>12 A You can read it as well as I<br/>13 can.<br/>14 Q Do you understand that 150<br/>15 basis points to include both profit and<br/>16 credit components?<br/>17 MR. LAWRENCE: Objection.<br/>18 Calls for speculation.<br/>19 A I really -- again, I can't<br/>20 tell.<br/>21 Q Did you ever discuss it with<br/>22 Mr. Vergara, whether that 150 basis points<br/>23 included both profit and credit?<br/>24 A I think the record will show I<br/>25 even put it in writing.</p>  | <p>1 Peter Shapiro<br/>2 the US history.<br/>3 Q So if he had put LIBOR minus<br/>4 1.47 percent, that would have given you<br/>5 more comfort?<br/>6 MR. LAWRENCE: Objection.<br/>7 Argumentative.<br/>8 A It would have made me go back<br/>9 and say, "Where did you get the number<br/>10 from?"<br/>11 The 150 number, you know, to<br/>12 me, I look at it on the page, and that's --<br/>13 that's as I said a yellow flag.<br/>14 Q Did you have any other concerns<br/>15 about the 150 number?<br/>16 A What kind of concerns would you<br/>17 mean?<br/>18 Q You were concerned that it<br/>19 looked like too round of a number, and you<br/>20 wanted to assess it more rigorously,<br/>21 correct?<br/>22 A I had one concern --<br/>23 accuracy -- that it be done rigorously and<br/>24 accurately and fairly.<br/>25 Q And you didn't think the LIBOR</p> |
| Page 313   | Page 315   |
| <p>1 Peter Shapiro<br/>2 Q And what did you put into<br/>3 writing?<br/>4 A I put the word:<br/>5 "Whoa, where did you get this<br/>6 number from," or "whoa" and some additional<br/>7 words that were indicating that.<br/>8 Q And why did you white "whoa"?<br/>9 A Because it looked like -- you<br/>10 know, one of -- one of the things you get<br/>11 in practice in this business is you start<br/>12 to look at numbers and you say:<br/>13 "Where did that come from?"<br/>14 One of the, you know, yellow<br/>15 flags is when a number is very round. 150<br/>16 is a very round number. Rarely did -- do<br/>17 rigorous estimates come out very round.<br/>18 Q So you were concerned that it<br/>19 was too round of a number?<br/>20 A I was concerned that it was<br/>21 just a number that you he was pulling out<br/>22 of air based upon feel. And that was<br/>23 insufficient for the rigor that would be<br/>24 needed for making a claim against the<br/>25 Lehman estate in the largest bankruptcy in</p> | <p>1 Peter Shapiro<br/>2 minus 150 basis points was any of those?<br/>3 A I couldn't tell. There was no<br/>4 backup for it.<br/>5 Q And if you look at the last<br/>6 paragraph of this memorandum, it says:<br/>7 "As of March 25, 2009, the<br/>8 value of TSA's reserve fund agreement with<br/>9 LBSF was \$23,664,383 in TSA's favor."<br/>10 Do you see that?<br/>11 A Yes.<br/>12 Q And did -- and Mr. Vergara<br/>13 determined that number using the model?<br/>14 A Correct.<br/>15 Q And he used the assumption of<br/>16 LIBOR minus 150 basis points?<br/>17 A It's self-evident from the<br/>18 memo.<br/>19 Q That he indeed used LIBOR minus<br/>20 150 to reach that valuation?<br/>21 A Yes.<br/>22 Q And assuming a maturity of 2042<br/>23 for the reserve fund agreement?<br/>24 A At this point that was our<br/>25 understanding.</p>              |

15 (Pages 312 to 315)

| Page 316  | Page 318  |
|---|---|
| <p>1 Peter Shapiro<br/>2 (Exhibit No. Shapiro 37, E-Mail<br/>3 chain, top E-Mail dated 4/20/09 from<br/>4 Peter Shapiro to James Vergara,<br/>5 Subject: TSA memo, Bates Nos. SFG<br/>6 2370 backwards to 2369, including 2371<br/>7 and 2368, is marked by the reporter<br/>8 for identification.)<br/>9 Q The court reporter has handed<br/>10 you a document that has been marked as<br/>11 Shapiro Exhibit 37, which is an E-Mail and<br/>12 an attachment. Its Bates range is SFG<br/>13 2370 -- it's stapled -- it's backwards. So<br/>14 it starts 2368 through 2371.<br/>15 So the -- we stapled the<br/>16 attachment behind putting them out of Bates<br/>17 number order.<br/>18 A I am deeply troubled by the<br/>19 stapling issue.<br/>20 Q We can fix it if you'd like.<br/>21 A No.<br/>22 Q I will give you a chance to<br/>23 look at this; and then, when you are ready,<br/>24 I will have some questions.<br/>25 A Okay. Sure.</p> | <p>1 Peter Shapiro<br/>2 will probably get them."<br/>3 Do you see that?<br/>4 A Yes.<br/>5 Q Meaning that you went directly<br/>6 into the document he had sent you and<br/>7 revised some of the words, correct?<br/>8 A Without clicking the "track<br/>9 changes" button in Microsoft word to show<br/>10 what I had changed. I obviously started to<br/>11 change them and just said, you know, "Read<br/>12 through. You will pick it up."<br/>13 Q And then you also inserted a<br/>14 number of comments in brackets to<br/>15 Mr. Vergara?<br/>16 A Right.<br/>17 Q And aside from this E-Mail<br/>18 exchange, did you have discussions with<br/>19 Mr. Vergara about his draft memorandum that<br/>20 we saw in Shapiro Exhibit 36?<br/>21 A It looks -- and I just have to<br/>22 say how it looks from this discussion. I<br/>23 can't -- I can't recall whether we had a<br/>24 follow-up discussion as I sit here. It<br/>25 would be hard to believe that I didn't.</p> |
| Page 317  | Page 319  |
| <p>1 Peter Shapiro<br/>2 I am ready.<br/>3 Q And if you look at the --<br/>4 A By the way, for the record, I<br/>5 think you stapled it correctly. I think<br/>6 you numbered it incorrectly.<br/>7 Q I wasn't the numbering, so you<br/>8 will have to take that up with<br/>9 Mr. Lawrence.<br/>10 A Okay.<br/>11 Q If you look at the E-Mail, in<br/>12 the middle of the first page on Sunday,<br/>13 April 19, 2009, 4:32, you are writing to<br/>14 Mr. Vergara and telling him you're finally<br/>15 getting to this.<br/>16 Do you see that?<br/>17 A Yes.<br/>18 Q Was this your first set of<br/>19 comments on the draft memorandum that we<br/>20 looked at at Shapiro Exhibit 36?<br/>21 A I believe so.<br/>22 Q And you continue by saying:<br/>23 "I have made a bunch of<br/>24 language changes to it, which I didn't<br/>25 red-line; but, if you read through it, you</p>   | <p>1 Peter Shapiro<br/>2 Q But you don't recall the<br/>3 specifics of any such discussion?<br/>4 A No.<br/>5 Q But the -- is it fair to say<br/>6 that the thrust of your comments in this<br/>7 E-Mail and the attachment is that you are<br/>8 pushing Mr. Vergara to take a more rigorous<br/>9 and defensible approach to the valuation?<br/>10 A Yes, I think I am very clear in<br/>11 here.<br/>12 Q As you said, it's important to<br/>13 get that valuation correct, right?<br/>14 A Yes, and I even say -- Lauri,<br/>15 you will be entertained by how bad my<br/>16 estimate was in terms of the time it would<br/>17 take you guys to contest this.<br/>18 I say:<br/>19 "Remember, we have to be<br/>20 prepared to defend this six months or, who<br/>21 knows, two years from now."<br/>22 At that point, I didn't<br/>23 envision that it would be five and a half<br/>24 years from "now."<br/>25 Q But the point is that to do</p>                                  |

16 (Pages 316 to 319)

| Page 320  | Page 322  |
|---|---|
| <p>1 Peter Shapiro</p> <p>2 this rigorously and to make sure you got it</p> <p>3 right was quite important?</p> <p>4 A Absolutely. Our discipline</p> <p>5 always was:</p> <p>6 How do we do this in a fair and</p> <p>7 reasonable way?</p> <p>8 It was very explicitly</p> <p>9 spilled -- spelled out by me repeatedly to</p> <p>10 our staff, that:</p> <p>11 "There aren't good guys and bad</p> <p>12 guys here. Lehman had a bankruptcy. They</p> <p>13 went into default. We have to value this</p> <p>14 fairly. We will have clients on both sides</p> <p>15 of the Lehman bankruptcy. And it's just</p> <p>16 fair that it be done right."</p> <p>17 When I mean "both sides,"</p> <p>18 clients who owe money to the Lehman estate</p> <p>19 and clients who are owed money by the</p> <p>20 Lehman estate.</p> <p>21 So the important thing was</p> <p>22 doing it fairly and reasonably and</p> <p>23 defensible, knowing that Lehman was likely</p> <p>24 to spend millions -- we didn't realize</p> <p>25 hundreds of millions -- on legal -- you</p> | <p>1 Peter Shapiro</p> <p>2 Q And if you continue to the</p> <p>3 start of the fourth paragraph in Shapiro</p> <p>4 Exhibit 37, it looks like you added that</p> <p>5 sentence as well:</p> <p>6 "The use of a swap to value</p> <p>7 agreements of this type is the broadly</p> <p>8 accepted market methodology"?</p> <p>9 A Yes.</p> <p>10 Q And you did, in fact, add that</p> <p>11 language?</p> <p>12 A That's -- yes, that was my</p> <p>13 English teacher in me because James began</p> <p>14 the paragraph -- the original draft with</p> <p>15 the word, "This," which to me is bad</p> <p>16 writing. When you are starting a new</p> <p>17 paragraph, you should explain what the</p> <p>18 "This" is.</p> <p>19 Q You also added the notion that</p> <p>20 valuing it in this manner is the way -- is</p> <p>21 the broadly accepted market methodology,</p> <p>22 correct?</p> <p>23 A Correct.</p> <p>24 Q And then, if you turn to the</p> <p>25 second page of the memorandum, the</p> |
| Page 321  | Page 323  |
| <p>1 Peter Shapiro</p> <p>2 know, legal expenses to challenge.</p> <p>3 Q If you look at the attached</p> <p>4 memorandum that you revised, the third</p> <p>5 paragraph, the last sentence of that, talks</p> <p>6 about -- tell me when you are there.</p> <p>7 A Yes.</p> <p>8 Q It says:</p> <p>9 "To value the cash flows on the</p> <p>10 agreement, the appropriate method is to use</p> <p>11 a similar interest rate swap, in which one</p> <p>12 payer, i.e., Lehman would pay a fixed rate</p> <p>13 of 4.484 percent, and the other payer would</p> <p>14 pay a floating rate."</p> <p>15 Do you see that?</p> <p>16 A Correct.</p> <p>17 Q And is that language you added</p> <p>18 to the memorandum?</p> <p>19 A Let's compare it if we could to</p> <p>20 Exhibit 36, just so we are clear we are</p> <p>21 looking at this. It looks clear that I</p> <p>22 would have added that.</p> <p>23 Q And if you continue to the --</p> <p>24 A Just to -- just to make it</p> <p>25 clear to the client what was going on.</p>                             | <p>1 Peter Shapiro</p> <p>2 penultimate paragraph, that is where you</p> <p>3 have the "whoa" that you referred to</p> <p>4 before.</p> <p>5 Do you see that?</p> <p>6 A Yes.</p> <p>7 Q Okay. And did Vergara's</p> <p>8 valuation come as surprise to you, of LIBOR</p> <p>9 minus 150 basis points?</p> <p>10 A By "surprise" do you mean did I</p> <p>11 think it was -- in terms of its magnitude</p> <p>12 surprising, that is, that it was too big,</p> <p>13 too small? No. That was not what</p> <p>14 surprised my.</p> <p>15 The "whoa" is:</p> <p>16 "Back this up. Defend this.</p> <p>17 Explain how you got to that."</p> <p>18 It didn't say to me:</p> <p>19 "Gee, that's too small,"</p> <p>20 or, "Gee, that's too big."</p> <p>21 It's just:</p> <p>22 "Where did you get this number</p> <p>23 from? Did you pull it out of a hat?"</p> <p>24 Q And did you ever ask him where</p> <p>25 he got the number from?</p>   |

17 (Pages 320 to 323)



| Page 324  | Page 326  |
|---|---|
| <p>1 Peter Shapiro<br/>2 A I just asked him to back it up.<br/>3 I said to him, "How do you" -- to answer<br/>4 your question directly, did I ask him how<br/>5 he got the number, right after the word<br/>6 "whoa" it says:<br/>7 "How" did you -- "How do you<br/>8 get this number?"<br/>9 So the answer is, yes, I asked<br/>10 him.<br/>11 Q And what was his answer?<br/>12 A His answer was to go back and<br/>13 do it more rigorously.<br/>14 Q Do you recall any other<br/>15 discussion as to where he got the number<br/>16 LIBOR minus 150 basis points?<br/>17 A No.<br/>18 (Exhibit No. Shapiro 38, E-Mail<br/>19 with attachment, E-Mail dated 4/21/09<br/>20 from James Vergara to Peter Shapiro,<br/>21 Subject: TSA Loss Calc, Bates Nos.<br/>22 SFG 2381 to 2384, is marked by the<br/>23 reporter for identification.)<br/>24 Q The court reporter has handed<br/>25 you a document that has been marked as</p>                           | <p>1 Peter Shapiro<br/>2 Swap Financial staff as to the revisions<br/>3 that were taking place in the memorandum at<br/>4 this time?<br/>5 A I don't.<br/>6 Q Do you -- look at the attached<br/>7 memorandum. The "Concerning" line has been<br/>8 changed from, "Valuation of TSA's reserve<br/>9 fund agreement with Lehman Brothers Special<br/>10 Financing, Inc.," which is seen in Shapiro<br/>11 Exhibit 37, to, "Calculation of loss for<br/>12 TSA's reserve fund agreement with Lehman<br/>13 Brothers Special Financing, Inc."<br/>14 Do you see that?<br/>15 A Yes.<br/>16 Q Why was that change made?<br/>17 A I don't remember.<br/>18 Q Do you believe that to be an<br/>19 accurate description of what's contained in<br/>20 this memorandum, a calculation of loss for<br/>21 TSA's reserve fund agreement?<br/>22 A "Loss" is a defined term.<br/>23 "Loss," I believe, needs to include an<br/>24 additional component of the unpaid amounts;<br/>25 that is, you know, Lehman's failure on the</p>  |
| Page 325  | Page 327  |
| <p>1 Peter Shapiro<br/>2 Shapiro Exhibit 38, which is a cover E-Mail<br/>3 and an attached memorandum.<br/>4 The cover E-Mail is dated<br/>5 April 21, 2009. It's Bates stamped for the<br/>6 record SFG 2381 through 2384.<br/>7 Let me know when you have had a<br/>8 chance to review this document.<br/>9 A Yes, completed reading it.<br/>10 Q Okay. Do you recognize this<br/>11 revised version of the memorandum?<br/>12 A Yes.<br/>13 Q And this is a revised version<br/>14 reflecting your comments that we saw in<br/>15 Shapiro Exhibit 37?<br/>16 A I believe it certainly would<br/>17 have reflected those to make it more<br/>18 rigorous to go into the spread components<br/>19 in detail.<br/>20 Q Do you recall any drafts of the<br/>21 memorandum between what we looked at in<br/>22 Shapiro Exhibit 37 and Shapiro Exhibit 38?<br/>23 A I don't.<br/>24 Q Okay. Do you recall any<br/>25 discussions with Mr. Vergara or any other</p> | <p>1 Peter Shapiro<br/>2 agreement between the time of its last<br/>3 deliveries and -- and the valuation date.<br/>4 And I don't think this includes<br/>5 that, so this is -- this is missing that<br/>6 component. It may be missing some other<br/>7 things if I went back over it. But that's<br/>8 the one that jumps off the page to me.<br/>9 Q But the purpose of this<br/>10 memorandum was to calculate loss of TSA's<br/>11 reserve fund agreement?<br/>12 A Yes, to calculate -- to<br/>13 calculate it as of that date. You know,<br/>14 we -- there is a slang expression that you<br/>15 use in the swap market, that is, a clean<br/>16 valuation or a dirty valuation.<br/>17 "Dirty" sounds like it's<br/>18 somehow nefarious. It's not in any way.<br/>19 It's just that "dirty" would include the<br/>20 accrued interest or unpaid amounts. And<br/>21 this -- this only gives the clean, you<br/>22 know, not -- not the dirty valuation.<br/>23 Q Because it doesn't include<br/>24 those amounts from the date of the last<br/>25 delivery to the termination date, you</p> |

18 (Pages 324 to 327)

| Page 328  | Page 330  |
|---|---|
| <p>1 Peter Shapiro<br/>2 believe that's missing from this<br/>3 memorandum, correct?<br/>4 A Yes, it's short. It needs to<br/>5 have that in there to meet the full<br/>6 definition of "loss."<br/>7 Q If you look at the first<br/>8 paragraph, the second -- starting with the<br/>9 second sentence, "Under the terms of the<br/>10 RFA," do you see that?<br/>11 A This is -- second paragraph of<br/>12 the first page of the memo.<br/>13 Q First paragraph, second<br/>14 sentence starting, "Under the terms."<br/>15 A I'm sorry. It says, "Under the<br/>16 terms of the RFA" in the beginning of the<br/>17 second paragraph, too.<br/>18 Q Do you see where I am?<br/>19 A Yes.<br/>20 Q First paragraph, second<br/>21 sentence?<br/>22 A Yes.<br/>23 Q That from there to the end of<br/>24 the paragraph has been added in Shapiro<br/>25 Exhibit 38. Do you know why that was</p>                      | <p>1 Peter Shapiro<br/>2 when quoting from the definition of the<br/>3 termination amount?<br/>4 A No.<br/>5 Q Do you know why he didn't<br/>6 include the section that said, "Any<br/>7 calculation made by Washington TSA must be<br/>8 made as if it were Lehman" when describing<br/>9 the termination process?<br/>10 A No.<br/>11 Q If you go to the fourth<br/>12 paragraph of Shapiro Exhibit 38, it<br/>13 starts, "In order to calculate TSA's Loss,"<br/>14 with a capital "L"; do you see that?<br/>15 A In the fourth paragraph, yes.<br/>16 Q And if you look at the third<br/>17 paragraph of Shapiro Exhibit 37, to put<br/>18 your finger on that.<br/>19 A Okay. This is 37. Yep.<br/>20 Q If you compare those first two<br/>21 sentences from Shapiro Exhibit 38 to the<br/>22 fourth paragraph in Shapiro Exhibit 37,<br/>23 Shapiro Exhibit 38 says:<br/>24 "In order to calculate TSA's<br/>25 Loss," with a capital "L," "we begin by</p> |
| Page 329  | Page 331  |
| <p>1 Peter Shapiro<br/>2 added?<br/>3 A If I compared that with which<br/>4 one?<br/>5 Q Shapiro Exhibit 37.<br/>6 A Okay. Let me just compare.<br/>7 Where is the equivalent section 37, Lauri,<br/>8 that you are -- that you are comparing this<br/>9 against?<br/>10 Q There is not an equivalent<br/>11 section. The section regarding the<br/>12 definition of the "termination amount" is<br/>13 new in Exhibit 38.<br/>14 A Yes. I don't know why -- you<br/>15 know, I would just be speculating.<br/>16 Q That was not a comment you gave<br/>17 to Mr. Vergara, to add a reference to the<br/>18 definition of the "termination amount"?<br/>19 A I can't recall.<br/>20 Q Do you know why -- I assume<br/>21 Mr. Vergara drafted this draft that we are<br/>22 looking at in Shapiro Exhibit 38?<br/>23 A Yes.<br/>24 Q Do you know why Mr. Vergara did<br/>25 not mention the market quotation process</p> | <p>1 Peter Shapiro<br/>2 analyzing the RFA cash flows."<br/>3 Do you see that?<br/>4 A Yes.<br/>5 Q If you look at Shapiro<br/>6 Exhibit 37, it says at the beginning of the<br/>7 third paragraph:<br/>8 "In order to value the reserve<br/>9 fund agreement, we begin by analyzing the<br/>10 cash flows."<br/>11 Do you see that?<br/>12 A Yes, I do.<br/>13 Q So depending -- it doesn't make<br/>14 any difference whether you are calculating<br/>15 TSA's loss or whether you are determining<br/>16 the value of the reserve fund agreement,<br/>17 you start by analyzing the reserve fund<br/>18 agreement's cash flows, correct?<br/>19 MR. LAWRENCE: Objection.<br/>20 Argumentative.<br/>21 Q You can answer.<br/>22 A I would say that's correct.<br/>23 Q And that there are two cash<br/>24 flows that need to be analyzed as we<br/>25 discussed, the fixed leg and the floating</p>   |

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| <p>1 Peter Shapiro<br/>2 leg, correct?<br/>3 A Correct.<br/>4 Q Regardless of whether you are<br/>5 valuing the reserve fund agreement or<br/>6 calculating loss, correct?<br/>7 A Right.<br/>8 Q If you go to the fifth<br/>9 paragraph of the memorandum -- sorry -- of<br/>10 Shapiro 38, which is on page SFG 2383, it's<br/>11 the first full paragraph on that page. It<br/>12 says, "The use of a LIBOR plus spreadsheet<br/>13 analysis" -- do you see that?<br/>14 A Yes.<br/>15 Q And then if you look at the<br/>16 fourth paragraph of Shapiro Exhibit 37, it<br/>17 starts -- it says:<br/>18 "The use of a swap to value<br/>19 agreements of this type is a broadly<br/>20 accepted market methodology."<br/>21 Versus Shapiro Exhibit 38 says:<br/>22 "The use of a LIBOR plus spread<br/>23 analysis with an interest rate swap to<br/>24 value agreements like the RFA is the<br/>25 broadly accepted market methodology."</p> | <p>1 Peter Shapiro<br/>2 read, make it look better.<br/>3 Q Okay. And that's something --<br/>4 A We weren't paid by the word, so<br/>5 we didn't have any incentive to make it<br/>6 longer.<br/>7 Q And that would be something<br/>8 Mr. Vergara did, adding those headings?<br/>9 A Yes.<br/>10 Q If you look at the bottom of<br/>11 the second page of the memorandum, which is<br/>12 Shapiro Exhibit 38, Bates stamp SFG 2383,<br/>13 the very last line, he -- well, the very<br/>14 last paragraph, he's talking about the<br/>15 credit charge for the RFA.<br/>16 Do you see where I am at?<br/>17 A "In order to assess a proper<br/>18 credit charge"?<br/>19 Q Yes.<br/>20 A Yes, I do see that.<br/>21 Q And Mr. Vergara discusses the<br/>22 spread between the Washington TSA bonds and<br/>23 the Bloomberg 30-year General Purpose<br/>24 Revenue Bond Index, correct?<br/>25 A Correct.</p>         |
| Page 333   | Page 335   |
| <p>1 Peter Shapiro<br/>2 Do you see that?<br/>3 A I do see that.<br/>4 Q Why was that change made<br/>5 between Exhibit 37 and Exhibit 38?<br/>6 A I can't recall.<br/>7 Q Do you recall any discussion<br/>8 about that change?<br/>9 A Not at all.<br/>10 Q And if you look at Exhibit 38,<br/>11 in general, compared to Exhibit 37, we see<br/>12 new headings being added like "Commercial<br/>13 Paper Spreads" and "Charges For Municipal<br/>14 Tobacco Credit," correct?<br/>15 A Yes.<br/>16 Q And why are those headings<br/>17 added?<br/>18 A I would only be speculating<br/>19 about why headings were added.<br/>20 Q Was there a substantive reason,<br/>21 or was it more of an organizational<br/>22 decision?<br/>23 A I believe it would be -- and I<br/>24 am speculating here -- it would be more<br/>25 organizational to make the memo easier to</p>  | <p>1 Peter Shapiro<br/>2 Q And he says that that spread is<br/>3 4.29 percent, correct?<br/>4 A On March 25th.<br/>5 Q Yes. And then he writes:<br/>6 "For purposes of our analysis<br/>7 on March 25th, we have conservatively used<br/>8 a credit spread of 3 percent."<br/>9 Do you see that?<br/>10 A Correct.<br/>11 Q And was that Mr. Vergara's<br/>12 conclusion or your conclusion?<br/>13 A That was Mr. Vergara's<br/>14 conclusion, I believe.<br/>15 Q And what was that conclusion<br/>16 based on?<br/>17 A I know it came out in the final<br/>18 version -- and that was not included, so,<br/>19 you know -- again, you know, I am not<br/>20 remembering as we sit here. But, you know,<br/>21 it seemed to be a random assumption. We<br/>22 needed to be rigorous, not have a random<br/>23 assumption.<br/>24 Q And you communicated that to<br/>25 Mr. Vergara, that it seemed to be a random</p> |

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| <p>1 Peter Shapiro<br/>2 assumption?<br/>3 A As I said, I can't recall.<br/>4 Q Did Mr. Vergara adjust the<br/>5 number of the credit spread himself, or did<br/>6 he stay with 3 percent?<br/>7 A In the subsequent analysis, he<br/>8 adjusted it.<br/>9 Q Okay. And you don't know why<br/>10 he adjusted that?<br/>11 A Because we took out this<br/>12 3 percent ceiling.<br/>13 Q And why did you take out the<br/>14 3 percent ceiling?<br/>15 A I can't recall as I sit here.<br/>16 You know, I just gave you to the best of my<br/>17 ability what I think would have gone on.<br/>18 Q Was it an adjustment he made?<br/>19 A Was what an adjustment he made?<br/>20 Q You said the adjustment to take<br/>21 out the 3 percent ceiling.<br/>22 A I can't recall what the exact<br/>23 sequence was. But the 3 percent was taken<br/>24 out, and then he based it upon the actual<br/>25 spread, not putting a 3 percent cap in.</p>                 | <p>1 Peter Shapiro<br/>2 A The word "conservative" could<br/>3 have different meanings to different<br/>4 people. It understates the credit charge<br/>5 compared to what the bond market showed.<br/>6 The bond market showed 4.29.<br/>7 Q And that's your conclusion that<br/>8 it understates the credit charge?<br/>9 A As compared to the bond spread.<br/>10 Q And did you communicate that to<br/>11 Mr. Vergara?<br/>12 A Again, I already answered and<br/>13 said I can't recall the conversations.<br/>14 (Previously Marked Exhibit No.<br/>15 Lehman 15, 4/21/09 Memorandum from<br/>16 Peter Shapiro, James Vergara to Bob<br/>17 Cook, Concerning: Calculation of<br/>18 Loss, Bates Nos. TSA 21616 to 21618 is<br/>19 introduced into the proceedings.)<br/>20 Q I am showing you a document<br/>21 that has been previously marked as Lehman<br/>22 Exhibit 15, which is a multi-page<br/>23 memorandum, dated April 21, 2009, Bates<br/>24 stamped TSA 021616 through 021618. I'll<br/>25 give you a chance to look at it. Let me</p> |
| Page 337  | Page 339   |
| <p>1 Peter Shapiro<br/>2 Q And that was a decision<br/>3 Mr. Vergara made, to take out the 3 percent<br/>4 ceiling?<br/>5 A It would have been -- again, I<br/>6 am not -- I am -- it calls for me to<br/>7 speculate. I am not recalling.<br/>8 Q You don't recall having any<br/>9 discussions with Mr. Vergara about the<br/>10 3 percent ceiling?<br/>11 A No.<br/>12 Q And you don't recall whether --<br/>13 A It's all -- you know, as I said<br/>14 again and again, our emphasis was doing<br/>15 this rigorously, based upon -- you know,<br/>16 upon actual data that we had in the market.<br/>17 Q And you don't recall whether<br/>18 the decision to change the credit spread<br/>19 from 3 percent to 4.29 percent was<br/>20 Mr. Vergara's or yours?<br/>21 A No.<br/>22 Q And do you think a 3 percent<br/>23 credit spread, assuming that bond spread of<br/>24 4.29 percent, is a conservative<br/>25 determination of a credit charge?</p> | <p>1 Peter Shapiro<br/>2 know when you are comfortable.<br/>3 A Thank you.<br/>4 I finished going through it.<br/>5 Q I noticed as you were going<br/>6 through it you were comparing it to Shapiro<br/>7 Exhibit 38?<br/>8 A Very perceptive.<br/>9 Q And there are not very many<br/>10 changes between Shapiro Exhibit 38 and<br/>11 Lehman Exhibit 15; is that fair?<br/>12 A Depends on how you -- what you<br/>13 mean by "very many," but I only saw a few.<br/>14 Q And Lehman Exhibit 15, I<br/>15 believe you testified in earlier<br/>16 depositions, that this is the version of<br/>17 the memorandum that went to the Washington<br/>18 Tobacco Settlement Authority, correct?<br/>19 A I believe so.<br/>20 Q Okay. And do you recall<br/>21 whether the memorandum in Lehman<br/>22 Exhibit 15, dated April 21, 2009, was, in<br/>23 fact, sent to Washington Tobacco Settlement<br/>24 Authority on or around April 21, 2009?<br/>25 A Do I recall if it was, just as</p>   |

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| <p>1 Peter Shapiro<br/>2 I am sitting here? I have to look back at<br/>3 the record.<br/>4 Q Do you have any doubt that it<br/>5 was sent to them on or about that date?<br/>6 A Not as we sit here. I assume<br/>7 you have an E-Mail that would go along with<br/>8 it or something like that.<br/>9 Q Do you have any reason to doubt<br/>10 that it wasn't sent to them on or around<br/>11 April 21, 2009?<br/>12 A No, it makes sense.<br/>13 Q If you look at Shapiro<br/>14 Exhibit 38, Mr. Vergara is sending you the<br/>15 draft of the memorandum at 3:12 p.m.; do<br/>16 you see that?<br/>17 A Correct.<br/>18 Q So any changes that were made<br/>19 between Shapiro Exhibit 38 and the version<br/>20 in Lehman Exhibit 15 that was sent to the<br/>21 client would have been made in a matter of<br/>22 hours on April 21, 2009; is that fair?<br/>23 A That's correct.<br/>24 (There was a discussion off the<br/>25 record.)</p> | <p>1 Peter Shapiro<br/>2 negative 4.29 percent, correct?<br/>3 A Yes.<br/>4 Q And that's a change from<br/>5 Shapiro Exhibit 38, where, in that same box<br/>6 on the last page, it shows a credit spread<br/>7 of a negative 3 percent, correct?<br/>8 A Yes.<br/>9 Q And that change is consistent<br/>10 with the removal of that sentence at the<br/>11 end of the tobacco credit section, correct?<br/>12 A Exactly.<br/>13 MS. SAWYER: If we could take<br/>14 just a short break, I would appreciate<br/>15 it.<br/>16 MR. LAWRENCE: Sure.<br/>17 THE VIDEOGRAPHER: The time is<br/>18 11:30 a.m.; we are going off of the<br/>19 record.<br/>20 (There was a discussion off the<br/>21 record.)<br/>22 (A break is taken.)<br/>23 THE VIDEOGRAPHER: The time is<br/>24 11:43 a.m., October 16, 2014. This is<br/>25 tape number two in the videotaped</p>   |
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| <p>1 Peter Shapiro<br/>2 Q If you look at Lehman<br/>3 Exhibit 15 as compared to Shapiro<br/>4 Exhibit 38, you will see under the section<br/>5 "Charges For Municipal Tobacco Credit," the<br/>6 very last sentence from Shapiro Exhibit 38<br/>7 has been removed, correct?<br/>8 A Yes.<br/>9 Q And nothing has been put in its<br/>10 place?<br/>11 A No.<br/>12 Q So you have removed -- the<br/>13 sentence has been removed that:<br/>14 "For purposes of our analysis<br/>15 on March 25th we have conservatively used a<br/>16 credit spread of 3 percent."<br/>17 Correct?<br/>18 A Correct.<br/>19 Q And then instead you used a<br/>20 credit spread of 4.29 percent in Lehman<br/>21 Exhibit 15, correct?<br/>22 A Correct.<br/>23 Q And that change is reflected on<br/>24 the third page of Lehman Exhibit 15 in the<br/>25 chart showing that the credit spread is a</p>  | <p>1 Peter Shapiro<br/>2 deposition of Mr. Peter Shapiro.<br/>3 (Exhibit No. Shapiro 39, Claim<br/>4 Amount Document, Bates No. SFG 2348,<br/>5 is marked by the reporter for<br/>6 identification.)<br/>7 Q The court reporter has handed<br/>8 you a document that has been marked as<br/>9 Shapiro Exhibit 39. It's a single-page<br/>10 document, printout of an Excel spreadsheet.<br/>11 Its Bates stamp is SFG 02348. Not too much<br/>12 information -- but I will ask you if you<br/>13 recognize this document.<br/>14 A I don't.<br/>15 Q Do you know what this document<br/>16 is at all?<br/>17 A Are you asking me, even though<br/>18 I don't recognize it, do I know what it is?<br/>19 Q Yes.<br/>20 A If I don't recognize it -- I'm<br/>21 not sure the distinction you are making<br/>22 between knowing what it is.<br/>23 Q Do you know -- do you know the<br/>24 information -- what the information is that<br/>25 is being communicated in this spreadsheet?</p> |

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| <p>1 Peter Shapiro<br/>2 A Could I figure it out by<br/>3 looking at it?<br/>4 Q Sure. Can you figure it out?<br/>5 A I think so.<br/>6 Q Okay.<br/>7 A Some of the numbers.<br/>8 MR. LAWRENCE: Well, I would<br/>9 ask you not to speculate.<br/>10 A Okay.<br/>11 Q Is this a -- do you recall a<br/>12 spreadsheet being kept at Swap Financial<br/>13 Group that contained information as<br/>14 reflected in Shapiro Exhibit 39?<br/>15 A No.<br/>16 Q Do you recall preparing a<br/>17 spreadsheet yourself that contained<br/>18 information such as that found in<br/>19 Exhibit 39?<br/>20 A No.<br/>21 Q At the top, it says "Washington<br/>22 TSA and current claim."<br/>23 Do you see that?<br/>24 A Yes.<br/>25 Q Do you know what that's</p>  | <p>1 Peter Shapiro<br/>2 Q Did Swap Financial Group ever<br/>3 calculate what they expected the Lehman<br/>4 valuation of the RFA to be?<br/>5 A Somebody prepared this<br/>6 spreadsheet. So when you say Swap<br/>7 Financial, I assume what you mean:<br/>8 Did anyone in Swap Financial<br/>9 calculate this? Obviously, somebody did.<br/>10 Q And so you believe that to be a<br/>11 calculation of what the expected Lehman<br/>12 valuation of the RFA would be?<br/>13 A I can't tell by "Expected<br/>14 Lehman" whether that meant what we expected<br/>15 Lehman to calculate, or what, you know.<br/>16 Q What else do you think it might<br/>17 be?<br/>18 MR. LAWRENCE: Objection.<br/>19 Calls for speculation.<br/>20 A What else could it be besides<br/>21 what? You know, it's hard to tell.<br/>22 Q And do you recall any<br/>23 discussions at -- with Washington TSA about<br/>24 what you expected Lehman to value the<br/>25 reserve fund agreement at?</p> |
| Page 345   | Page 347  |
| <p>1 Peter Shapiro<br/>2 referring to?<br/>3 A I can -- the numbers say<br/>4 45,715,055. And then it says "L minus<br/>5 387.4."<br/>6 Q And you have no idea what that<br/>7 means?<br/>8 A "L minus 387.4" would normally<br/>9 mean LIBOR 387.4.<br/>10 Q And do you know what "current<br/>11 claim" refers to?<br/>12 A Well, let's take a look, Lauri,<br/>13 at Lehman 15. And if we look on<br/>14 page three, it uses negative spread of<br/>15 387.4. And the number here is forty-five<br/>16 seven one five five -- it's very close to<br/>17 the number in Lehman 15. That's all I can<br/>18 say.<br/>19 Q The next line is "Expected<br/>20 Lehman" 11 million 589 -- 11,589,000, and<br/>21 then "L minus 20.0"; do you see that?<br/>22 A Yes.<br/>23 Q Do you know what that lines<br/>24 refers to?<br/>25 A No.</p> | <p>1 Peter Shapiro<br/>2 A I do not recall.<br/>3 Q Do you recall any discussions<br/>4 with Washington TSA or internally at Swap<br/>5 Financial Group that Lehman would value the<br/>6 reserve fund agreement at LIBOR minus<br/>7 20 basis points?<br/>8 A No.<br/>9 Q Do you recall having that<br/>10 discussion with anyone at Swap Financial<br/>11 Group about Lehman valuing the reserve fund<br/>12 agreement at LIBOR minus 20 basis points?<br/>13 A No.<br/>14 Q Did Swap Financial Group ever<br/>15 value the reserve fund agreement assuming a<br/>16 spread to LIBOR of LIBOR minus 20 basis<br/>17 points?<br/>18 A Did who?<br/>19 Q Swap Financial Group.<br/>20 A Someone in the firm.<br/>21 Evidently, from this spreadsheet, someone,<br/>22 you know, did a scenario at LIBOR minus 20.<br/>23 Q And so you believe that the<br/>24 11,589,000 number is equivalent to LIBOR<br/>25 minus 20?</p>   |

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| <p>1 Peter Shapiro</p> <p>2 A I can't do that math in my</p> <p>3 head, but it looks like it would be in that</p> <p>4 range.</p> <p>5 Q So you believe there is some</p> <p>6 sort of relationship between those two</p> <p>7 numbers?</p> <p>8 A I would guess.</p> <p>9 Q And then the next two lines say</p> <p>10 "net"; and then it says 22,857,528. And</p> <p>11 the next line is 5,794,500.</p> <p>12 Do you know what those are?</p> <p>13 A I can't tell. You know, "net"</p> <p>14 looks like it's approximately twice the</p> <p>15 number above it. But it's not exactly</p> <p>16 twice. You could tell that. And the</p> <p>17 blank, who knows what that is? Is it half?</p> <p>18 It's not.</p> <p>19 Q Is the 22,857,528, is that half</p> <p>20 of 45,715,055?</p> <p>21 A I would have to do the math.</p> <p>22 Q Do you have a calculator?</p> <p>23 A I do. Would you like me to</p> <p>24 perform the calculation?</p> <p>25 Q Yes, please.</p>   | <p>1 Peter Shapiro</p> <p>2 Q You don't -- you don't recall</p> <p>3 any discussion of any net numbers being</p> <p>4 calculated at Swap Financial Group?</p> <p>5 A I don't even know what "net"</p> <p>6 means in this context.</p> <p>7 Q And you have no idea who</p> <p>8 prepared this spreadsheet at Swap Financial</p> <p>9 Group?</p> <p>10 A No.</p> <p>11 Q But someone did prepare this</p> <p>12 spreadsheet at Swap Financial Group?</p> <p>13 A Rarely do spreadsheets spring</p> <p>14 up on their own, so I would have to say it</p> <p>15 would have been prepared by a human.</p> <p>16 Q And then the next category is</p> <p>17 "Negotiating Range"; do you see that?</p> <p>18 A Yes.</p> <p>19 Q It has four numbers. It has 15</p> <p>20 million, 8 million, 30 million, and</p> <p>21 16 million.</p> <p>22 Do you see that?</p> <p>23 A Yes.</p> <p>24 Q What do those negotiating range</p> <p>25 numbers refer to?</p>  |
| Page 349   | Page 351  |
| <p>1 Peter Shapiro</p> <p>2 A Okay. Please note I am using a</p> <p>3 very sophisticated piece of technology here</p> <p>4 that is a Samsung cell phone.</p> <p>5 So the question was: Is it</p> <p>6 half the current claim number, right?</p> <p>7 Q Is the first net number half of</p> <p>8 the current claim number?</p> <p>9 A So let's take 22,857,528 times</p> <p>10 two, and it gives me 45,715,056. So it's</p> <p>11 within a quibble of half.</p> <p>12 Q And the next net number of</p> <p>13 \$5,794,500, is that half of the expected</p> <p>14 Lehman number?</p> <p>15 A Let's take a look. Okay. I</p> <p>16 will do it in the reverse this time. Let's</p> <p>17 do 11,589, okay, divide by two. And it</p> <p>18 gives me 57,945, exactly half.</p> <p>19 Q Do you know why net numbers</p> <p>20 were being determined that were half of the</p> <p>21 "Current Claim" and "Expected" Lehman</p> <p>22 numbers?</p> <p>23 MR. LAWRENCE: Objection.</p> <p>24 Calls for speculation.</p> <p>25 A I don't have a clue.</p> | <p>1 Peter Shapiro</p> <p>2 MR. LAWRENCE: Objection.</p> <p>3 Calls for speculation.</p> <p>4 A I would again just be</p> <p>5 speculating.</p> <p>6 Q You have no -- do you have any</p> <p>7 recollection of a discussion with</p> <p>8 Washington TSA about negotiation range?</p> <p>9 A We had discussions back and</p> <p>10 forth with the Lehman estate at various</p> <p>11 times, so this may have been numbers that</p> <p>12 people were playing with.</p> <p>13 But as I'm recalling, there was</p> <p>14 some discussions back and forth looking</p> <p>15 at -- looking at whether or not there was</p> <p>16 some range which they could have settled</p> <p>17 them. And I'm not recalling any specifics</p> <p>18 on that.</p> <p>19 We had so many discussions with</p> <p>20 various people who'd float in and out of</p> <p>21 the Lehman estate at that point.</p> <p>22 Q My question was:</p> <p>23 Do you recall discussions with</p> <p>24 Washington TSA about a negotiation,</p> <p>25 negotiating range?</p> |

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| <p>1 Peter Shapiro<br/>2 A I'm not recalling.<br/>3 Q You don't recall any such<br/>4 discussions?<br/>5 A I do recall some discussions<br/>6 around crystal --<br/>7 MR. LAWRENCE: Stop. Okay. I<br/>8 just want to interpose an objection.<br/>9 Obviously, for the purposes of --<br/>10 purposes of mediation, you should not<br/>11 answer a question, any discussions you<br/>12 had for purposes of mediation.<br/>13 Outside of that range, answer.<br/>14 A Okay. Let me say, you know,<br/>15 for purposes of mediation, I have to, at<br/>16 direction of counsel, you know, not include<br/>17 anything there.<br/>18 There were some discussions<br/>19 around crystallization of the claim. And<br/>20 so, you know, there were some discussions<br/>21 at certain points about what we could come<br/>22 up with, you know, in that area, what were<br/>23 hypo -- strictly hypotheticals.<br/>24 Q And what was the range of<br/>25 numbers being discussed with Washington TSA</p> | <p>1 Peter Shapiro<br/>2 you did have such discussions?<br/>3 A Exactly.<br/>4 Q It wouldn't surprise you if you<br/>5 did have such discussions with Washington<br/>6 TSA?<br/>7 A Correct.<br/>8 Q And just to make sure the<br/>9 record is clear, you have no idea what the<br/>10 net numbers on this Shapiro Exhibit 39<br/>11 mean?<br/>12 A No. But, Lauri, in your line<br/>13 of questioning, you are suggesting that<br/>14 perhaps that would have been the recovery<br/>15 that you would have gotten had a Lehman<br/>16 claim paid out at \$0.50 on the dollar.<br/>17 And that's a pretty good guess<br/>18 on your part.<br/>19 Q Do you agree with that guess?<br/>20 A I can't tell.<br/>21 MR. LAWRENCE: Objection.<br/>22 Calls for speculation.<br/>23 Q It's a reasonable guess,<br/>24 though?<br/>25 A Yes, I think -- I hadn't</p>   |
| Page 353  | Page 355   |
| <p>1 Peter Shapiro<br/>2 around the crystallization of the claim?<br/>3 A I can't recall.<br/>4 Q Do you recall any discussions<br/>5 with Washington TSA about a negotiating<br/>6 range between \$15 million and \$8 million?<br/>7 A No.<br/>8 Q Do you recall any discussions<br/>9 with Washington TSA about having a<br/>10 negotiating range between \$30 million, and<br/>11 \$16 million?<br/>12 A 30 million and 60?<br/>13 Q 16.<br/>14 A 16, no.<br/>15 Q Do you recall any discussions<br/>16 with Washington TSA about expecting to<br/>17 recover 50 percent on its claims?<br/>18 MR. LAWRENCE: Again, outside<br/>19 of mediation.<br/>20 A Outside of mediation, I am not<br/>21 recalling that specifically, but 50 percent<br/>22 at that time interval would have been a,<br/>23 you know, a good, very rough ball park<br/>24 number.<br/>25 Q So it wouldn't surprise you if</p>   | <p>1 Peter Shapiro<br/>2 thought of that. I think you are making a<br/>3 pretty good guess.<br/>4 Q Do you -- then if you look on<br/>5 the right side of Exhibit 39, there's some<br/>6 much larger numbers, one that starts 2.67<br/>7 and one that is 53 billion 400 million.<br/>8 Do you see that?<br/>9 A Those would have been great<br/>10 recoveries to get, particularly the<br/>11 \$2.67 trillion.<br/>12 Q Do you -- do you know why those<br/>13 numbers are on the sheet?<br/>14 A No, those are the -- as I<br/>15 mentioned, pretty wild numbers.<br/>16 Q Do you have any idea what<br/>17 relation they might have to the Washington<br/>18 reserve fund agreement or its claim against<br/>19 Lehman?<br/>20 A For the life of me, you<br/>21 can't -- I can't figure out how you could<br/>22 get to 2.67 trillion.<br/>23 Q You don't -- do you recall any<br/>24 discussions with Washington TSA about<br/>25 numbers in the billions or trillions?</p> |

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| <p>1 Peter Shapiro</p> <p>2 A No.</p> <p>3 (Exhibit No. Shapiro 40, E-Mail</p> <p>4 chain, top E-Mail dated 8/23/10 from</p> <p>5 Nathaniel Singer to Peter Shapiro and</p> <p>6 Lilian Chern, Subject: Tobacco, Bates</p> <p>7 No. SFG 2352, is marked by the</p> <p>8 reporter for identification.)</p> <p>9 Q The court reporter has handed</p> <p>10 you a document that has been marked as</p> <p>11 Shapiro Exhibit 40. For the record it's a</p> <p>12 single-page document, Bates stamped SFG</p> <p>13 2352. It's an E-Mail chain. The top</p> <p>14 E-Mail is on August 23, 2010, from Nat</p> <p>15 Singer.</p> <p>16 Do you see that?</p> <p>17 A Right.</p> <p>18 Q Let me know when you have had a</p> <p>19 chance to review this.</p> <p>20 A Yeah, I have read it.</p> <p>21 Q Okay. Do you recall this</p> <p>22 E-Mail exchange?</p> <p>23 A I do not. It's -- you know,</p> <p>24 when I read this -- if you're asking, does</p> <p>25 it refresh my memory, it really doesn't.</p>   | <p>1 Peter Shapiro</p> <p>2 mediation process, we worked with multiple</p> <p>3 other tobacco claimants.</p> <p>4 Q And why would you look at the</p> <p>5 other claims being filed by the other</p> <p>6 tobacco entities in the Lehman bankruptcy?</p> <p>7 A Comparison, look at how other</p> <p>8 people would have looked at them -- look</p> <p>9 at, you know, as a very, very crude</p> <p>10 estimate of reasonableness.</p> <p>11 Q And you would have looked at</p> <p>12 their spreads to LIBOR as is reflected in</p> <p>13 Shapiro Exhibit 40?</p> <p>14 A As one of many indicators.</p> <p>15 Q What else would you look at?</p> <p>16 A What else would I look at for</p> <p>17 an indication of reasonableness?</p> <p>18 Q Um-hum.</p> <p>19 A All the other things we have</p> <p>20 discussed, you know, bond spreads in the</p> <p>21 bond market, spreads in the CP market, any</p> <p>22 other indications we have of profit</p> <p>23 margins, all of the things that we have</p> <p>24 gone over in great detail.</p> <p>25 Q So you would look at these</p>                 |
| Page 357  | Page 359  |
| <p>1 Peter Shapiro</p> <p>2 You know, there is nothing in here that</p> <p>3 surprises me. But I don't have, as I sit</p> <p>4 here, any record of that, any recollection</p> <p>5 of that, of this back and forth.</p> <p>6 Q Do you recall the analysis</p> <p>7 being done of looking at the New Jersey</p> <p>8 claim and comparing it to the Washington</p> <p>9 claim?</p> <p>10 A No, I don't.</p> <p>11 Q Do you recall you watching the</p> <p>12 other claims being filed by the other</p> <p>13 tobacco entities and seeing how they</p> <p>14 compared with the Washington claim?</p> <p>15 A I recall looking at the other</p> <p>16 claims that were filed quite a bit for many</p> <p>17 reasons.</p> <p>18 Q Do you recall looking at those</p> <p>19 other claims specifically in connection</p> <p>20 with your work you were doing for</p> <p>21 Washington TSA?</p> <p>22 A Washington TSA was part of our</p> <p>23 work, so I would have obviously been</p> <p>24 looking at a comparison with Washington.</p> <p>25 But as you're aware, in the confidential</p> | <p>1 Peter Shapiro</p> <p>2 other claims to get a sense of their views</p> <p>3 of the spreads in the bond market?</p> <p>4 A No, because you can't tell from</p> <p>5 these claims what the -- how they derived</p> <p>6 their spreads.</p> <p>7 Q So what other indications from</p> <p>8 the other claims were you looking at other</p> <p>9 than the spread to LIBOR to assess the</p> <p>10 reasonableness of Washington's claim?</p> <p>11 A The other thing you would look</p> <p>12 at in the claims is how they calculated, to</p> <p>13 the extent you could see that. In some of</p> <p>14 the claims, you could; like, for example,</p> <p>15 it says here that in the New Jersey -- in</p> <p>16 the New Jersey claim, it has one really</p> <p>17 unusual feature.</p> <p>18 And I am quoting from my E-Mail</p> <p>19 to Nat and Lillian on -- at the bottom of</p> <p>20 Exhibit 50 [sic]:</p> <p>21 "Their FA parens per southwest</p> <p>22 got market quotations."</p> <p>23 So that was obviously a source</p> <p>24 of some interest.</p> <p>25 Q And why was that a source of</p> |

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| Page 360  | Page 362  |
|---|---|
| <p>1 Peter Shapiro<br/>2 some interest?<br/>3 A Because our experience had been<br/>4 that market quotations were not obtainable.<br/>5 Q And when you say "market<br/>6 quotations," you are referring to the<br/>7 process outlined in the RFA to solicit<br/>8 quotations from dealers, correct?<br/>9 A Correct.<br/>10 Q And were you aware of any other<br/>11 tobacco reserve fund agreement claimants<br/>12 that had been able to obtain market<br/>13 quotations?<br/>14 MR. LAWRENCE: Are you talking<br/>15 about then or at any time?<br/>16 MS. SAWYER: At any time.<br/>17 A I can't recall. I would have<br/>18 to go back and look.<br/>19 Q Have you ever reviewed the<br/>20 Virginia claim?<br/>21 A I know I reviewed the Virginia<br/>22 claim, and I can't recall what was in it.<br/>23 Q Have you ever reviewed the<br/>24 Buckeye claim?<br/>25 A Yes.</p>  | <p>1 Peter Shapiro<br/>2 Q And then used -- then she used<br/>3 those spreads to LIBOR and applied them to<br/>4 the Washington reserve fund agreement<br/>5 inputs, if you would, the notional amount,<br/>6 the termination date, those types of<br/>7 things, correct?<br/>8 A Correct.<br/>9 Q And she at this time would have<br/>10 assumed the maturity date of 2042?<br/>11 A This is now August 2010. When<br/>12 was the mediation for Washington?<br/>13 Q Started in May of 2012.<br/>14 A The mediation was 2012. You<br/>15 probably know this, Lauri, or maybe Paul<br/>16 knows this from the record, when we became<br/>17 aware of the earlier termination date of<br/>18 the agreement, the fact that the original<br/>19 agreement had been amended to 2032.<br/>20 I don't know what date offhand<br/>21 we became aware of that.<br/>22 Q So you don't know, looking at<br/>23 this document, Shapiro Exhibit 40, whether<br/>24 or not Ms. Chern assumed a maturity date of<br/>25 2032 or 2042 in applying those spreads to</p> |
| Page 361  | Page 363  |
| <p>1 Peter Shapiro<br/>2 Q And do you recall what the<br/>3 basis was for their loss calculation -- I<br/>4 am sorry -- their termination amount<br/>5 calculation?<br/>6 A I can't recall. You know,<br/>7 there are a bunch of these claims, and I<br/>8 wouldn't want to try to do it as a memory<br/>9 contest. I would have to go back and look.<br/>10 Q But there were other tobacco<br/>11 claimants that were able to obtain market<br/>12 quotations?<br/>13 A I can't recall. I'd really<br/>14 have to go back and look. I should state<br/>15 for the record that on New Jersey, as you<br/>16 are aware, our firm has been retained to<br/>17 work with them on the mediation process.<br/>18 And that mediation process is coming up<br/>19 shortly.<br/>20 Q In the analysis that was done<br/>21 here by Ms. Chern of the New Jersey claim,<br/>22 she had taken the claim numbers and the<br/>23 quotations and converted them to a spread<br/>24 to LIBOR; is that fair?<br/>25 A That's fair.</p> | <p>1 Peter Shapiro<br/>2 LIBOR to the Washington reserve fund<br/>3 agreement?<br/>4 A I thought my prior answer was<br/>5 very clear on that. I can't tell.<br/>6 Q Did you discuss this<br/>7 analysis -- do you recall any discussion<br/>8 with Washington TSA about this analysis of<br/>9 the New Jersey claim?<br/>10 A I do not.<br/>11 Q Do you recall any discussion<br/>12 internally at Swap Financial Group about<br/>13 this analysis of the New Jersey claim and<br/>14 its implications for the Washington claim?<br/>15 A As I look at this, I can see<br/>16 that there was discussion, if discussion is<br/>17 broadly defined to include E-Mail back and<br/>18 forth.<br/>19 Q Do you recall any other<br/>20 discussion other than what is reflected in<br/>21 Shapiro Exhibit 40?<br/>22 A No.<br/>23 Q And then numbers Ms. Chern has<br/>24 calculated in her 2:14 p.m. E-Mail range<br/>25 from \$9 million to \$25 million roughly; do</p>   |

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1 Peter Shapiro  
2 you see that?  
3 A Yes.  
4 Q And those would have been  
5 moneys payable to Washington TSA, correct?  
6 A Correct.  
7 Q And those are substantially  
8 less than the claim being calculated at  
9 Washington -- by Swap Financial Group at  
10 this time of \$45 million, right?  
11 A And substantially larger than  
12 the claim that Lehman was offering to go  
13 for, so they are in between.  
14 Q So in between the claim  
15 calculated by Swap Financial Group of  
16 approximately \$45 million and Lehman's  
17 valuation?  
18 A Right, which, as I recall, was  
19 around 4 million.  
20 Q All right.  
21 (Exhibit No. Shapiro 41, Word  
22 Document, Notes taken by Mr. Shapiro,  
23 Bates Nos. SFG 2314 to 2318, is marked  
24 by the reporter for identification.)  
25 Q The court reporter has handed

1 Peter Shapiro  
2 you a document that has been marked as  
3 Shapiro Exhibit 41. It's a multi-page  
4 document, looks like a Word document, Bates  
5 stamped SFG 2314 through 2318.  
6 It doesn't have a heading or  
7 anything. You can certainly read it all,  
8 Mr. Shapiro, but there are certain areas I  
9 want to focus on. But you should glance it  
10 over and see if you recognize the document.  
11 A I do recognize the document.  
12 Q Okay. What is this document?  
13 A These are my notes.  
14 Q And how were these notes  
15 prepared by you?  
16 A I would be talking to people  
17 and typing on my screen.  
18 Q And you would be typing like a  
19 Word document?  
20 A In a Word document, yeah.  
21 Q And would you -- there are  
22 certain aspects of this document that are  
23 covered up, redacted, and they say "work  
24 product"; would you record the notes of  
25 conversations that you had with counsel or

1 Peter Shapiro  
2 your client as well?  
3 A I may have.  
4 Q Is that sort of your normal  
5 practice in handling one of your matters to  
6 keep sort of running notes like this?  
7 A Sometimes.  
8 Q And did you do this in  
9 connection with Washington?  
10 MR. LAWRENCE: Objection.  
11 A Was this in connection with  
12 Washington?  
13 Q Yes.  
14 A Shapiro 41?  
15 Q Yes.  
16 A Yes, this was -- this looks  
17 like it's clearly in connection with  
18 Washington. But maybe I should read over  
19 it just to make sure.  
20 Q I think we can -- we can  
21 revisit that, if you have a concern as we  
22 go through it, that this doesn't have to do  
23 with Washington Tobacco.  
24 You can let me know, if, as we  
25 go through the examination, you think it

1 Peter Shapiro  
2 does not relate to Washington Tobacco.  
3 A Okay.  
4 Q Would there be other sets of  
5 notes that you would have prepared other  
6 than this set of notes?  
7 A Not if we didn't produce --  
8 everything that we had we produced.  
9 Q Okay. If you turn to the  
10 second page, which has a very large  
11 blacked-out section at the top, and then it  
12 says, "7/14/10, call with LB."  
13 Do you see that?  
14 A Right.  
15 Q Is this notes of your call with  
16 Lehman Brothers on July 14, 2010?  
17 A "LB" is what I would normally  
18 refer to -- use to refer to Lehman  
19 Brothers. And the names in the parens --  
20 in the parentheses following "LB" are all  
21 Lehman names that I recognize with the  
22 exception of Richard Harper. I don't  
23 remember that name.  
24 Q And so would these be notes of  
25 your call that you had with Lehman Brothers

1 Peter Shapiro  
2 on July 14, 2010?  
3 A That's correct.  
4 Q And would these notes have been  
5 made contemporaneously with that call?  
6 A Yes.  
7 Q So as you were on the phone  
8 call, you would have been making notes?  
9 A Exactly, which -- it would  
10 explain, you know, spelling errors and lack  
11 of grammatical rigor.  
12 Q Would you share these notes  
13 with anybody?  
14 A Generally not.  
15 Q And in this call, it seems like  
16 you are reporting that Lehman discussed the  
17 notion of the use of the agency curve. Is  
18 that a fair thing to draw out of these  
19 notes?  
20 A Let me read it over.  
21 Q Okay.  
22 A You know, as you remarked  
23 earlier, rather than spend time reading the  
24 whole thing, you were going to highlight  
25 sections. And I will just read that

1 Peter Shapiro  
2 section over.  
3 Q Sure.  
4 A I am done reading it.  
5 Q My question was -- is:  
6 Do you recall in this  
7 discussion, July 2010, Lehman raising the  
8 idea that it was using the agency curve to  
9 value the reserve fund agreement?  
10 A I don't have any  
11 contemporaneous recollection as I am  
12 sitting here. But it says here:  
13 "Thinks if we can generate all  
14 the curves on all eligible securities,  
15 won't tell us the level, use agency curve  
16 to derive it."  
17 From reading those words, it  
18 sounds like he was pushing for using -- you  
19 know, when I say he, Sandeep or whoever the  
20 Lehman representative was, was saying:  
21 "Look at agencies, and look at  
22 the agency forward curve."  
23 Q After reading these notes from  
24 the July 14, 2010, call, do you recall any  
25 other aspects of the discussion that are

1 Peter Shapiro  
2 not reflected in your notes?  
3 A No. On that specific  
4 discussion, you are saying no.  
5 Q And why did you start taking  
6 notes -- you know, we don't have any note  
7 of your earlier calls with Lehman Brothers.  
8 Why did you start taking notes at this  
9 particular point in time?  
10 A We were looking at this issue  
11 of how we would sell the claim; and, you  
12 know, if it were possible to get something  
13 for the claim. So there were a lot of new  
14 players.  
15 If you look at how the notes  
16 start, the beginning is a whole list of  
17 potential claim purchasers. Some of those  
18 are firms that we deal with everyday. But  
19 many of those are firm that are not swap  
20 dealers.  
21 So just simply to keep track of  
22 a lot of new and different names, I  
23 obviously said I better begin to commit  
24 this to writing and not rely upon my  
25 memory.

1 Peter Shapiro  
2 Q So this memorandum was your  
3 notes regarding kind of the claims sale  
4 process that you were undertaking for  
5 Washington TSA?  
6 A It would be wrong to call this  
7 a memorandum. These are just notes. It's  
8 a scratch pad really. That's what you  
9 think of this as, Lauri, very -- very  
10 informal.  
11 Q But your notes relating to that  
12 claim sale process that you were involved  
13 with on behalf of Washington TSA?  
14 A That would be accurate.  
15 Q If you turn to the page marked  
16 2316 at the bottom, which is the next page,  
17 and it has "Peter Colquitt DB" at the top;  
18 do you see that?  
19 A Yes.  
20 Q I see: Peter Colquitt DB."  
21 Then the next paragraph starts with "Dan  
22 Daly, Citi." Then the last paragraph --  
23 next-to-the-last paragraph starts with  
24 "Greg S." Then the last paragraph starts  
25 with "Kevin Schwartz."

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|---|--|
| <p>1 Peter Shapiro<br/>2 Do you see that?<br/>3 A Yes, right.<br/>4 Q And are these notes of<br/>5 conversations that you had with those<br/>6 individuals?<br/>7 A That's correct.<br/>8 Q And Dan Daly at Citi, was he<br/>9 sitting on the Citi desk when you talked to<br/>10 him?<br/>11 A Yes.<br/>12 Q And did you know Dan Daly<br/>13 before you had this conversation reflected<br/>14 in these notes?<br/>15 A Yes.<br/>16 Q And how long have you known<br/>17 Mr. Daly?<br/>18 A I don't know.<br/>19 Q Okay. If you look five lines<br/>20 down in the paragraph with Mr. Daly, toward<br/>21 the end of that line, it says:<br/>22 "The mid is probably LIBOR less<br/>23 40 or 50."<br/>24 Do you see that?<br/>25 A Yes.</p>   | <p>1 Peter Shapiro<br/>2 few minutes. I want to read over the<br/>3 paragraphs for Colquitt, Daly, Greg S., and<br/>4 Kevin Schwartz. Let me just see.<br/>5 Q You certainly can read at your<br/>6 leisure. You certainly can read. I want<br/>7 you to understand the context.<br/>8 A Okay. Thank you.<br/>9 Okay. Sorry.<br/>10 Q That's all right.<br/>11 A It was very interesting to read<br/>12 backup.<br/>13 Q Okay. So going back to the<br/>14 paragraph for Mr. Daly --<br/>15 A Yes.<br/>16 Q -- of your conversation -- your<br/>17 notes of your conversation with Mr. Daly,<br/>18 we were talking about the fifth line where<br/>19 you had written:<br/>20 "The mid is probably LIBOR less<br/>21 40 or 50."<br/>22 Do you see that?<br/>23 A Right, yep.<br/>24 Q What were you referring to when<br/>25 you wrote:</p>  |
| Page 373  | Page 375   |
| <p>1 Peter Shapiro<br/>2 Q And then:<br/>3 "Unwind going the other way."<br/>4 Do you see where I am?<br/>5 A Yes.<br/>6 Q What do your notes -- what did<br/>7 Mr. Daly tell you that you wrote down as<br/>8 being, "The mid is probably LIBOR less 40<br/>9 or 50"?<br/>10 A Say that, again, because I was<br/>11 trying to read while you were talking so I<br/>12 didn't quite follow.<br/>13 Q What was the discussion with<br/>14 Mr. Daly that prompted you to write down in<br/>15 your notes:<br/>16 "The mid is probably LIBOR less<br/>17 40 or 50"?<br/>18 A Let me read over the whole<br/>19 thing okay. Okay. I am just going to read<br/>20 over that paragraph right now, although I<br/>21 should say it's important to put that<br/>22 paragraph in the context of what I was<br/>23 doing from these notes, you know, what you<br/>24 can see.<br/>25 So if you could, just give me a</p> | <p>1 Peter Shapiro<br/>2 "The mid is probably LIBOR less<br/>3 40 or 50"?<br/>4 A That's his starting point for<br/>5 valuing the termination. You know, he<br/>6 works off of that as the mid, and then he<br/>7 adds on to that or does further<br/>8 subtraction -- is really what you are<br/>9 doing.<br/>10 So you widen the spread from<br/>11 LIBOR minus 40 or 50 to include tobacco<br/>12 long-dated funding, all of these things<br/>13 that he listed.<br/>14 Q So the mid refers to what the<br/>15 industry calls the "mid market value"?<br/>16 A Yes.<br/>17 Q And that would be the value<br/>18 before you added on whatever dealer charges<br/>19 need to be added on for things like the<br/>20 credit and the funding and the hedging, et<br/>21 cetera?<br/>22 A That's correct.<br/>23 Q And he was telling you that the<br/>24 mid is probably LIBOR less 40 or 50 basis<br/>25 points?</p> |

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| Page 376  | Page 378   |
|---|--|
| <p>1 Peter Shapiro<br/>2 A That's correct.<br/>3 Q Okay. And if you look at the<br/>4 line before that, it says:<br/>5 "If we looked at a 30-year FPA,<br/>6 we would look at LIBOR minus 50 minus 42."<br/>7 Do you see that?<br/>8 A Yes.<br/>9 Q Is that kind of the same<br/>10 concept as what we were just looking at<br/>11 that that --<br/>12 A 40 to 50 -- he's thinking out<br/>13 loud here.<br/>14 Q Okay. Just to make sure the<br/>15 record is clear, so he's telling you:<br/>16 "If we looked at a 30-year FPA,<br/>17 we would start with LIBOR minus 50 or minus<br/>18 42 as sort of the mid market value."<br/>19 Correct?<br/>20 A Correct.<br/>21 And then, you know, Lauri, as<br/>22 you go ahead, he is saying:<br/>23 "Really wide, very expensive,<br/>24 no appetite for credit exposure."<br/>25 Q After the portion we were</p> | <p>1 Peter Shapiro<br/>2 typical in an unwind. When you think of<br/>3 unwinds, usually, you are thinking:<br/>4 "Okay. I have got add on to<br/>5 it."<br/>6 But here you have to subtract<br/>7 off.<br/>8 Q Why do you have to subtract off<br/>9 here?<br/>10 A Because you have further -- you<br/>11 get further from mid. In other words, they<br/>12 would -- what they are saying is -- is when<br/>13 they calculate this, how much would they be<br/>14 willing to pay as a fixed rate? So that's<br/>15 really what you are looking at.<br/>16 Remember, Lehman, in 2002 was<br/>17 willing and contracted to pay<br/>18 4.484 percent. What they are saying here<br/>19 is they would start looking at the mid<br/>20 LIBOR rate, subtract off 40 to 50, and then<br/>21 begin the process of doing other<br/>22 subtractions for spread, "spread" defined<br/>23 broadly to include credit, hedging costs,<br/>24 funding, profit, all of those things.<br/>25 Q And this is what Citibank would</p> |
| Page 377  | Page 379   |
| <p>1 Peter Shapiro<br/>2 looking at where he says, "The mid is<br/>3 probably LIBOR less 40 or 50," you write<br/>4 "unwind going the other way."<br/>5 Do you see that?<br/>6 A Yes.<br/>7 Q What is that referring to?<br/>8 A Not positive, negative.<br/>9 Q What do you mean "not positive,<br/>10 negative"?<br/>11 A In other words, when you're --<br/>12 in terms of the unwind, you are saying<br/>13 LIBOR minus 40, and then further costs down<br/>14 lower.<br/>15 Q So in the event of an unwind or<br/>16 in other words a termination --<br/>17 A Yes.<br/>18 Q -- you would -- you interpret<br/>19 that to be an -- in the case of an unwind,<br/>20 you would go further into negative<br/>21 territory?<br/>22 A Correct.<br/>23 Q Even though you write "unwind<br/>24 going the other way"?<br/>25 A Yes, meaning negative. It's</p>     | <p>1 Peter Shapiro<br/>2 do -- when you say "they," you are<br/>3 referring to Citibank?<br/>4 A Correct.<br/>5 Q So then moving down to the --<br/>6 where it says "Greg S"; do you see that?<br/>7 A Yes.<br/>8 Q Do you know who that is<br/>9 referring to?<br/>10 A Absolutely.<br/>11 Q Who is that?<br/>12 A Greg Shlionsky --<br/>13 Q Who formerly --<br/>14 (There was a discussion off the<br/>15 record.)<br/>16 A Shlionsky. Let me spell it for<br/>17 you, S-h-l-i-o-n-s-k-y.<br/>18 Q Mr. Shlionsky formerly sat on<br/>19 the Lehman desk?<br/>20 A Correct. He was formerly the<br/>21 head of the Lehman desk.<br/>22 Q And at this time he was at<br/>23 Barclays?<br/>24 A At some time in -- around here,<br/>25 he moved from -- let me think. I'm not</p>  |

31 (Pages 376 to 379)

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|---|---|
| <p>1 Peter Shapiro<br/>2 sure. He -- you know, he set up his own<br/>3 firm, Rosemawr, at a certain point. So I'm<br/>4 not sure if he would have been at Barclays<br/>5 at this point or if he would have been at<br/>6 Rosemawr.<br/>7 I am trying to remember, Lauri,<br/>8 if he even stopped at Barclays, or if he<br/>9 went straight to Rosemawr, if he left<br/>10 Lehman before the Lehman bankruptcy. I<br/>11 could look it up.<br/>12 Q If you go down maybe eight<br/>13 lines --<br/>14 A Yes.<br/>15 Q -- it's -- the start of the<br/>16 line says, "An end to it" -- do you see<br/>17 where that line is?<br/>18 A Yep.<br/>19 Q And then to the end of that<br/>20 line, where it says, "No basis"?<br/>21 A Yep.<br/>22 Q Okay.<br/>23 "No basis in" -- "No basis<br/>24 market in A's discount notes. With agency<br/>25 you could reverse inquiry for six months,</p>   | <p>1 Peter Shapiro<br/>2 this is in that context.<br/>3 Q Okay. So he says there is "no<br/>4 basis market in A's discount notes,"<br/>5 referring to "agencies," I assume?<br/>6 A Yes.<br/>7 Q "With agency you could reverse<br/>8 inquiry for six months, but not 20 years."<br/>9 So he's referring to<br/>10 difficulties in hedging; is that fair?<br/>11 A Correct.<br/>12 Q But he then says:<br/>13 "I did it once, but it was<br/>14 unique."<br/>15 A Yes.<br/>16 Q Do you see that?<br/>17 A Yes.<br/>18 Q And do you recall Mr. Shlionsky<br/>19 telling you that he had hedged agency<br/>20 discount notes once before?<br/>21 A He -- I can't tell from my note<br/>22 here what he meant for how long he did it<br/>23 for.<br/>24 Q But he did do it for some<br/>25 period of time?</p> |
| Page 381  | Page 383  |
| <p>1 Peter Shapiro<br/>2 but not 20 years, did it once, but it was<br/>3 unique."<br/>4 Do you see that?<br/>5 A Yes.<br/>6 Q What do you recall<br/>7 Mr. Shlionsky telling you that you<br/>8 reflected in these notes?<br/>9 A That -- that the Lehman<br/>10 estate's idea of going out LIBOR forward --<br/>11 sorry -- the agency forward curve was<br/>12 nonsensical. It would not work, that it<br/>13 was a fantasy.<br/>14 And this is what all of these<br/>15 notes basically are saying. They're saying<br/>16 you can't do that. And, you know, they go<br/>17 into it. If you look at it, "with A's,<br/>18 their argument is silly."<br/>19 It's not -- it's not -- he's<br/>20 not using mild language on this. He's<br/>21 using -- he's saying the Lehman estate's<br/>22 notion here is a crackpot idea.<br/>23 Q But the section I was looking<br/>24 at, let's just focus on that.<br/>25 A I understand, but this is --</p> | <p>1 Peter Shapiro<br/>2 A For something.<br/>3 Q And then if you could see where<br/>4 Kevin Schwartz's name shows up, do you see<br/>5 that?<br/>6 A Yep.<br/>7 Q If you go up a few -- three<br/>8 lines above that, it says, "Lehman was the<br/>9 big guy. MS was the next one."<br/>10 Do you see that?<br/>11 A Yep.<br/>12 Q What does that mean?<br/>13 A Who was -- who were the most<br/>14 active players in this -- in the FPA<br/>15 market, or RFPA -- RFA market we are<br/>16 calling this.<br/>17 Q And Lehman was the big guy<br/>18 followed by --<br/>19 A Morgan Stanley.<br/>20 Q Then going to "Kevin Schwartz,<br/>21 MS," do you see that?<br/>22 A Yes.<br/>23 Q Was Mr. Schwartz at Morgan<br/>24 Stanley?<br/>25 A Yes.</p>  |



| Page 384  | Page 386   |
|---|--|
| <p>1 Peter Shapiro<br/>2 Q And was he sitting on the desk?<br/>3 A Yes.<br/>4 Q And did you speak with<br/>5 Mr. Schwartz?<br/>6 A Yes.<br/>7 Q The next line after -- or next<br/>8 words after that says:<br/>9 "Jeff Hasterok will call back."<br/>10 Do you see that?<br/>11 A Yes.<br/>12 Q And is that -- is that the same<br/>13 Jeff Hasterok who is an expert witness on<br/>14 behalf of Washington TSA?<br/>15 A Yes.<br/>16 Q And did Mr. Hasterok call you<br/>17 back?<br/>18 A From these notes, it doesn't<br/>19 look like it. It looks like instead:<br/>20 "Maybe should call Fabrice,<br/>21 too," and then it says "Fabrice."<br/>22 And then starts to be notes on<br/>23 what Fabrice was saying. Fabrice was their<br/>24 head trader. You know, Jeff was a<br/>25 derivatives structural marketer.</p>   | <p>1 Peter Shapiro<br/>2 Q So Fabrice was telling you that<br/>3 he was aware --<br/>4 A His last name is, just for the<br/>5 record, is Pilato, P-i-l-a-t-o.<br/>6 Q So Fabrice was telling you that<br/>7 he was aware of one dealer in the market<br/>8 that was using long-traded agencies to<br/>9 hedge and marking the FPA at the agency<br/>10 spread minus something?<br/>11 A Yes.<br/>12 Q Did you ask who -- what dealer<br/>13 that was?<br/>14 A I don't believe so. I would<br/>15 have noted.<br/>16 Q Okay.<br/>17 A But, again, he's saying you get<br/>18 completely killed. He was saying -- he was<br/>19 saying whoever did this was -- well, you<br/>20 know, was an amateur.<br/>21 Q That he thought it was a risky<br/>22 strategy?<br/>23 A Worse. He said you would get<br/>24 killed.<br/>25 Q But he was aware of somebody</p>   |
| Page 385  | Page 387   |
| <p>1 Peter Shapiro<br/>2 Q And so the notes starting with<br/>3 "Kevin Schwartz, MS," the notes of the<br/>4 conversation are actually notes of a<br/>5 conversation with Fabrice?<br/>6 A Yes.<br/>7 And if you will notice here,<br/>8 again, I'll just point out to you -- he's<br/>9 saying you can't do this -- this Lehman<br/>10 estate strategy of using -- as he says, you<br/>11 get completely killed. You know, he goes<br/>12 through it -- you know, I just read this<br/>13 through -- you know, about how -- how this<br/>14 would not work.<br/>15 Q So right after the word<br/>16 "Fabrice," you have a dash, and then it<br/>17 says:<br/>18 "One dealer was using long<br/>19 dated A's to hedge and marking the FPA at<br/>20 the A spread minus something."<br/>21 Do you see that?<br/>22 A Yes.<br/>23 Q So Mr. -- is Fabrice his first<br/>24 name?<br/>25 A Yes.</p> | <p>1 Peter Shapiro<br/>2 that was doing in the market?<br/>3 A Yes.<br/>4 MR. LAWRENCE: Objection.<br/>5 Argumentative. Asked and answered.<br/>6 A And I point out above, it's --<br/>7 Lauri, it's very much confirmed by what<br/>8 Greg Shlionsky says in the line right above<br/>9 where it says "Kevin Schwartz":<br/>10 "Less than sincere traders made<br/>11 this argument to a less than expert product<br/>12 control in order to book more profits."<br/>13 Q If you turn the page --<br/>14 A So you know what that means,<br/>15 what he's saying:<br/>16 "This is a fraudulent strategy<br/>17 that somebody would try to use to inflate<br/>18 their bonus."<br/>19 Q Of course, some dealer did it<br/>20 according to Mr. Fabrice?<br/>21 A Got away with doing it<br/>22 internally in order to inflate their profit<br/>23 numbers. But it was highly hazardous, not<br/>24 thought of as a -- as a -- as a legitimate<br/>25 practice.</p> |

33 (Pages 384 to 387)

| Page 388   | Page 390  |
|--|---|
| <p>1 Peter Shapiro</p> <p>2 Q And Mr. Shlionsky did it once?</p> <p>3 A Mr. Shlionsky did not say he</p> <p>4 did it once.</p> <p>5 Q He said he hedged agencies</p> <p>6 once?</p> <p>7 A He said he hedged agencies. He</p> <p>8 didn't say how long. And he said -- he</p> <p>9 said it was unique and not applicable.</p> <p>10 Q Where does he say it's not</p> <p>11 "applicable," that the --</p> <p>12 A He was saying:</p> <p>13 "But it was unique."</p> <p>14 What he's saying there is it</p> <p>15 wouldn't have applied in this case.</p> <p>16 Q What do you recall him saying</p> <p>17 about the hedge that he had done at Lehman</p> <p>18 and how it would not be applicable in this</p> <p>19 case?</p> <p>20 A When he's saying it was unique,</p> <p>21 he would have -- you know, that's what he's</p> <p>22 -- when I am writing the word "unique,"</p> <p>23 he's saying it wouldn't have applied.</p> <p>24 Q And did Mr. Shlionsky tell you</p> <p>25 that he had put the hedge in place while he</p> | <p>1 Peter Shapiro</p> <p>2 Q And that's the option held by</p> <p>3 the dealer?</p> <p>4 A That's correct.</p> <p>5 Q And Fabrice is telling you that</p> <p>6 the "cheapest-to-deliver option actually</p> <p>7 increases in value as the economic</p> <p>8 situation deteriorates"?</p> <p>9 A Correct.</p> <p>10 Q And how did you factor in the</p> <p>11 cheapest-to-deliver option in the valuation</p> <p>12 that you did on behalf of Washington TSA?</p> <p>13 A As -- you know, as we have</p> <p>14 discussed, we increased the value of the</p> <p>15 deliverable of CP from a norm, which I</p> <p>16 think I described in one of the prior</p> <p>17 documents, of 10 to 20 basis points, up to</p> <p>18 66.6. It's a big increase.</p> <p>19 Q But then in your rebuttal</p> <p>20 report, you reduced it to 3.1 basis points,</p> <p>21 correct?</p> <p>22 A You know, that we said that</p> <p>23 that 66.6 was too wide.</p> <p>24 Q Right. So you have reduced it</p> <p>25 now to 3.1 basis points?</p> |
| Page 389   | Page 391  |
| <p>1 Peter Shapiro</p> <p>2 was at Lehman?</p> <p>3 A It would -- you know, he just</p> <p>4 said he did it once. You know, he's not</p> <p>5 saying, "I did it at Lehman."</p> <p>6 But I know -- my relationship</p> <p>7 with him started when he was at Lehman.</p> <p>8 Q If you turn to the page marked</p> <p>9 2317, the third line starts, "Swap at</p> <p>10 implies" -- do you see which line I am at?</p> <p>11 A Yes.</p> <p>12 Q After the semi-colon, you</p> <p>13 write:</p> <p>14 "Cheapest-to-deliver option</p> <p>15 increases in value as the economic</p> <p>16 situation deteriorates."</p> <p>17 Do you see that?</p> <p>18 A Yes.</p> <p>19 Q What's the "cheapest-to-deliver</p> <p>20 option"?</p> <p>21 A "Cheapest-to-deliver option"</p> <p>22 means you can deliver whichever eligible</p> <p>23 security, CP agencies or Treasuries, at,</p> <p>24 you know -- at each of the six-month</p> <p>25 intervals.</p>  | <p>1 Peter Shapiro</p> <p>2 A We believe it was too wide --</p> <p>3 Q And so --</p> <p>4 A -- to be fair.</p> <p>5 Q And you believe that 3.1 basis</p> <p>6 points is where the dealer's</p> <p>7 cheapest-to-deliver option is given value?</p> <p>8 A When we went back and looked at</p> <p>9 the basis market at that time, rather than</p> <p>10 the spot market, the basis market seemed to</p> <p>11 indicate a much lower number.</p> <p>12 Q I don't think that answered my</p> <p>13 question.</p> <p>14 Is that 3.1 basis points taking</p> <p>15 it -- is that the valuation of the</p> <p>16 cheapest-to-deliver option held by the</p> <p>17 dealer?</p> <p>18 A It's the value of what was</p> <p>19 cheapest-to-deliver, which is CP, and</p> <p>20 implies the value of the option.</p> <p>21 Q So that 3.1 basis points is</p> <p>22 Swap Financial's opinion as to the value of</p> <p>23 the cheapest-to-deliver option held by the</p> <p>24 dealer?</p> <p>25 A Includes that, yes.</p>               |

34 (Pages 388 to 391)

| Page 392   | Page 394  |
|--|---|
| <p>1 Peter Shapiro<br/>2 Q And do you --<br/>3 MR. LAWRENCE: Lauri, I am --<br/>4 you know, I have let you go on for a<br/>5 while. This was not a newly produced<br/>6 document. You are beyond the scope of<br/>7 what we were allowed to depose --<br/>8 MS. SAWYER: I thought this was<br/>9 one of the documents that was produced<br/>10 in the last batch.<br/>11 MR. LAWRENCE: I was looking at<br/>12 this list, and it doesn't appear to<br/>13 be. I could be wrong.<br/>14 MS. SAWYER: I could be wrong,<br/>15 too. It was in the set that was given<br/>16 to me as a newly produced document.<br/>17 So I can certainly wrap it up, and we<br/>18 can move on. I have been trying to<br/>19 focus on the documents newly produced.<br/>20 MR. LAWRENCE: It's fine. It's<br/>21 fine. If you could finish up with<br/>22 this document -- I am not saying you<br/>23 have to stop this second, but I<br/>24 just -- looking at my list, it wasn't<br/>25 on it, but I could be wrong, too,</p> | <p>1 Peter Shapiro<br/>2 because, remember, he's the trader; so that<br/>3 would correlate with the earlier number<br/>4 that -- that you saw on Dan Daly in the 40<br/>5 to 50 range.<br/>6 Q And you wrote down "LIBOR plus<br/>7 50"?<br/>8 A Yeah, it's got to be a typo.<br/>9 Q You believe it to be a typo?<br/>10 A I said it's got to be a typo.<br/>11 Q And you believe that that --<br/>12 you believe that, even though he says<br/>13 "giving value to the cheapest-to-deliver<br/>14 option" --<br/>15 A Yeah.<br/>16 Q -- you still believe that to be<br/>17 a mid?<br/>18 A Yeah.<br/>19 Q So you believe that the<br/>20 cheapest-to-deliver option is incorporated<br/>21 into the mid market value?<br/>22 A Yes, because, remember, the --<br/>23 a mid is going to incorporate all the<br/>24 economic terms before you apply spreads.<br/>25 Q If you could look after the --</p> |
| Page 393   | Page 395  |
| <p>1 Peter Shapiro<br/>2 so --<br/>3 Q If you could go down to right<br/>4 before where it says "Chris Petronas CS,"<br/>5 do you see that?<br/>6 A Right before, yes.<br/>7 Q Two sentences before it, it<br/>8 says:<br/>9 "Thinks the fair spread is<br/>10 something in the mid double digits LIBOR<br/>11 plus 50, giving value to the<br/>12 cheapest-to-deliver option."<br/>13 Do you see that?<br/>14 A Yes.<br/>15 Q What do you recall about the<br/>16 discussion with Fabrice about that?<br/>17 A I'm not sure. I am looking at<br/>18 that -- you know, whether I -- whether I<br/>19 made a typo and should have said "minus,"<br/>20 rather than "plus," because "plus" makes no<br/>21 sense.<br/>22 Q And he -- he told you that he<br/>23 thinks a fair spread would be something in<br/>24 the mid double digits?<br/>25 A Yeah, he's giving a mid,</p>   | <p>1 Peter Shapiro<br/>2 A Notice what he says after that,<br/>3 "a long-term A hedge," meaning agency<br/>4 hedge, "is complete garbage."<br/>5 That's not a -- that's not a<br/>6 mild phraseology.<br/>7 Q I understand that you have a<br/>8 lot of points to make off of this document.<br/>9 And I am happy to sit here and do that, but<br/>10 we would finish up sooner if we just<br/>11 focused on the questions I have.<br/>12 A My apologies.<br/>13 Q If you look in the middle of<br/>14 the page, there is a number one, do you see<br/>15 that, just number one --<br/>16 A Yes.<br/>17 Q -- that is set in.<br/>18 A Yes.<br/>19 Q Right below that, it says:<br/>20 "MS quote sheets during"<br/>21 this -- "during the time period show no<br/>22 movement in FPA prices."<br/>23 Do you see that?<br/>24 A Yes.<br/>25 Q What is that referring to?</p>                               |

35 (Pages 392 to 395)

| Page 396   | Page 398   |
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| <p>1 Peter Shapiro</p> <p>2 A This was something in</p> <p>3 preparation for mediation, I believe. One</p> <p>4 of the things, if we went through, was</p> <p>5 trying to look at various quote sheets that</p> <p>6 are provided to us and other market</p> <p>7 participants, generally, on a weekly basis</p> <p>8 by certain dealer firms, that circulate</p> <p>9 quote sheets saying:</p> <p>10 "For this product, here is</p> <p>11 where their levels are, and for that</p> <p>12 product here is where their levels are."</p> <p>13 And one of those was Morgan</p> <p>14 Stanley. They produced a weekly quote</p> <p>15 sheet that quoted on FPAs and/or FDAs,</p> <p>16 whatever you want to call them, similar to</p> <p>17 the RFA, you know, this exact same</p> <p>18 architecture.</p> <p>19 Q And is this something that Swap</p> <p>20 Financial had in its possession, these</p> <p>21 quote sheets?</p> <p>22 A Yes.</p> <p>23 Q And if you go down a few lines,</p> <p>24 did you -- it says, "Call on 8/18/10."</p> <p>25 Did you share those quote</p> | <p>1 Peter Shapiro</p> <p>2 identification.)</p> <p>3 Q Mr. Shapiro, I am handing you a</p> <p>4 document that has been marked as Shapiro</p> <p>5 Exhibit 42. It's a single-page document,</p> <p>6 Bates stamped TSA 42744. It's an E-Mail</p> <p>7 dated May 24, 2011, from Carol Johnson to</p> <p>8 Kim Herman and Bob Cook.</p> <p>9 And then the -- it starts by</p> <p>10 saying:</p> <p>11 "Peter Shapiro called me this</p> <p>12 afternoon."</p> <p>13 A I have reviewed it.</p> <p>14 Q Do you recall this conversation</p> <p>15 that -- with Ms. Johnson that she's</p> <p>16 recounting in this E-Mail?</p> <p>17 A I don't.</p> <p>18 Q Okay. And it starts by saying:</p> <p>19 "Peter Shapiro called me this</p> <p>20 afternoon. He wants to talk to us about</p> <p>21 our reserve fund investments. He has had</p> <p>22 discussions with other tobacco clients in</p> <p>23 similar circumstances and believes there's</p> <p>24 some other forms of investment with better</p> <p>25 returns parentheses fixed rate that we</p>   |
| Page 397   | Page 399   |
| <p>1 Peter Shapiro</p> <p>2 sheets with Lehman?</p> <p>3 A I don't believe so.</p> <p>4 Q Okay. It says --</p> <p>5 A It says actually -- it says --</p> <p>6 no, it says here:</p> <p>7 "I have reviewed survey of FPA</p> <p>8 providers, MS sheet history."</p> <p>9 So I would have. It's saying I</p> <p>10 did, so I trust that I did.</p> <p>11 MS. SAWYER: And I don't think</p> <p>12 we have copies of these MS quote</p> <p>13 sheets, so I would just make a request</p> <p>14 for those since you indicated they're</p> <p>15 in your files.</p> <p>16 THE WITNESS: Yes.</p> <p>17 (Documents, MS Quote Sheets,</p> <p>18 requested.)</p> <p>19 (Exhibit No. Shapiro 42, E-Mail</p> <p>20 dated 5/24/11 from Carol Johnson to</p> <p>21 Kim Herman, Bob Cook, Subject: TSA --</p> <p>22 Lehman Brothers, TSA Reserve Agreement</p> <p>23 Investments and Status Review with</p> <p>24 Peter Shapiro, Bates No. TSA 42744, is</p> <p>25 marked by the reporter for</p>   | <p>1 Peter Shapiro</p> <p>2 could be taking advantage of."</p> <p>3 Do you recall what you were</p> <p>4 referring to in May of 2011 about these</p> <p>5 other investments that other tobacco</p> <p>6 clients had been taking advantage of?</p> <p>7 A I said I don't recall the call</p> <p>8 itself, so I can't recall the contents of</p> <p>9 the call if I don't recall the call.</p> <p>10 Q Do you recall ever speaking to</p> <p>11 Washington TSA about other investments that</p> <p>12 other tobacco clients were using for their</p> <p>13 reserve funds that you thought Washington</p> <p>14 should be doing?</p> <p>15 A Yes. We had other</p> <p>16 conversations, but not necessarily -- let</p> <p>17 me -- just to clarify -- not necessarily</p> <p>18 other tobacco clients were using, but that</p> <p>19 they were considering.</p> <p>20 Q And what were these other</p> <p>21 investments that your other clients were</p> <p>22 considering that you thought Washington TSA</p> <p>23 should consider?</p> <p>24 A In prior deposition, we've</p> <p>25 reviewed this -- this question, I believe,</p> |

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| Page 400   | Page 402   |
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| <p>1 Peter Shapiro<br/>2 that is, you know, what were the other<br/>3 alternatives to look at. And we -- you<br/>4 know, I think we reviewed some memos on<br/>5 this -- but, you know, various alternative<br/>6 products, in the absence of the<br/>7 available -- you know, the long-dated<br/>8 reserve fund agreement.<br/>9 (Previously Marked Exhibit No.<br/>10 Shapiro 6, 11/16/11 Memorandum from<br/>11 Peter Shapiro to Bob Cook and Carol<br/>12 Johnson, Bates Nos. TSA 38481 to 38484<br/>13 is introduced into the proceedings.)<br/>14 Q I am handing you what has been<br/>15 previously marked as Shapiro Exhibit 6,<br/>16 which is a memorandum from you to TSA on<br/>17 November 16, 2011.<br/>18 Is this what you were referring<br/>19 to about the discussions you had with<br/>20 Washington TSA about other investment<br/>21 opportunities?<br/>22 A Help me out here. The fact<br/>23 that it's called Shapiro 6, does that mean<br/>24 that we discussed this in a prior<br/>25 deposition?</p> | <p>1 Peter Shapiro<br/>2 beyond that at this point.<br/>3 MS. SAWYER: I am just trying<br/>4 to understand if there was a<br/>5 discussion relating to Shapiro<br/>6 Exhibit 42 other than -- I am trying<br/>7 to either connect them and say that<br/>8 was that the same or not. And they<br/>9 are six months different in time.<br/>10 MR. LAWRENCE: I understand<br/>11 that. But your most recent question<br/>12 clearly wasn't that focused.<br/>13 Q Do you recall any discussions<br/>14 with Washington TSA between May 2011 and<br/>15 November of 2011 discussing any other<br/>16 alternative investments other than those<br/>17 reflected in November -- in Shapiro<br/>18 Exhibit 6?<br/>19 A I do not recall.<br/>20 MR. LAWRENCE: You need to<br/>21 restate your question -- you say May<br/>22 of 2011 and May of 2011.<br/>23 MS. SAWYER: No, to November of<br/>24 2011.<br/>25 MR. LAWRENCE: Okay. Sorry.</p>   |
| Page 401   | Page 403   |
| <p>1 Peter Shapiro<br/>2 MR. LAWRENCE: Yes.<br/>3 Q Yes.<br/>4 A Okay. That's what I was<br/>5 guessing. This is exactly what I was<br/>6 referring to.<br/>7 Q And other than what's reflected<br/>8 in Shapiro Exhibit 6, do you recall having<br/>9 any other discussions with Washington TSA<br/>10 about alternative investment strategies<br/>11 that they should consider?<br/>12 A I am sure we had other<br/>13 discussions than just this memo.<br/>14 Q What do you recall of those<br/>15 discussions?<br/>16 A We reviewed these options.<br/>17 Q Do you recall presenting any<br/>18 other investment alternatives to Washington<br/>19 TSA other than what's reflected in Shapiro<br/>20 Exhibit 6?<br/>21 A Let me review just to make<br/>22 sure.<br/>23 MR. LAWRENCE: Again, I think<br/>24 you are -- while Shapiro 42 was newly<br/>25 produced, it seems like you are going</p>   | <p>1 Peter Shapiro<br/>2 A That's how I understood it.<br/>3 I don't recall anything other<br/>4 than this, other than these alternatives, I<br/>5 should say.<br/>6 Q And did you have any other<br/>7 tobacco clients, as you refer to in Shapiro<br/>8 Exhibit 42, that took advantage of any of<br/>9 the investment alternatives you outlined in<br/>10 Shapiro Exhibit 6?<br/>11 A As I sit here, I am not<br/>12 recalling who did what.<br/>13 Q Do you recall that some of them<br/>14 did pursue some of those alternatives you<br/>15 outlined in Shapiro Exhibit 6?<br/>16 MR. LAWRENCE: Again, I think<br/>17 that's beyond the scope of what is<br/>18 permitted at this point.<br/>19 A I am really not recalling, or I<br/>20 have to go back. I am racking my memory<br/>21 now, and I didn't expect you were going ask<br/>22 what other tobacco agencies did to<br/>23 reinvest.<br/>24 Q As part of your discussions<br/>25 with Washington TSA about its investment</p> |

37 (Pages 400 to 403)



| Page 404  | Page 406  |
|---|---|
| <p>1 Peter Shapiro<br/>2 alternatives, did you discuss what other<br/>3 tobacco clients of yours had done?<br/>4 A We discussed what other tobacco<br/>5 clients had considered --<br/>6 Q You don't recall --<br/>7 A -- or were considering.<br/>8 Q And do you recall whether any<br/>9 of those other tobacco clients were<br/>10 considering alternatives other than what<br/>11 you set forth in Shapiro Exhibit 6?<br/>12 A I don't believe so.<br/>13 Q Okay.<br/>14 MS. SAWYER: Can we go off of<br/>15 -- on the record or off, I am going to<br/>16 shift gears and go to the screen<br/>17 shots. It will take me a little bit<br/>18 of time, but if we want to take a<br/>19 break lunch break, whatever, that's<br/>20 fine. I don't have much after that,<br/>21 though. So I am kind of to saying it.<br/>22 MR. LAWRENCE: It's up to you.<br/>23 (There was a discussion off the<br/>24 record.)<br/>25 THE VIDEOGRAPHER: The time is</p> | <p>1 Peter Shapiro<br/>2 A Generally not. I -- you know,<br/>3 the Principia operation is all done by my<br/>4 staff, not by me.<br/>5 Q Okay.<br/>6 A I went through a very brief<br/>7 introductory on it many years ago; but,<br/>8 because I don't use it, I am -- you know,<br/>9 half the time, I am just trying to figure<br/>10 out what are -- what are the inputs in<br/>11 here.<br/>12 Q Okay. Do you use it from time<br/>13 to time?<br/>14 A No.<br/>15 Q So looking at just Exhibit 43,<br/>16 let's turn to -- let's -- actually, let's<br/>17 look at the first page. On the far right<br/>18 corner, it says "position," and it says<br/>19 "position date"; do you see that?<br/>20 A No, I'm looking. "Position<br/>21 date."<br/>22 MR. LAWRENCE: Talking about<br/>23 the front page.<br/>24 A Yes, do you mean in the lower<br/>25 right-hand corner there?</p> |
| Page 405  | Page 407  |
| <p>1 Peter Shapiro<br/>2 12:42 p.m.; we are going off of the<br/>3 record.<br/>4 (A lunch recess was taken.)<br/>5 THE VIDEOGRAPHER: The time is<br/>6 1:40 p.m.; we are back on the record.<br/>7 (Exhibit No. Shapiro 43,<br/>8 Version 1 Screen Shot from Principia<br/>9 Software, Bates Nos. SFG 2394 to 2395,<br/>10 is marked by the reporter for<br/>11 identification.)<br/>12 Q The court reporter has handed<br/>13 you a document -- or I handed you a<br/>14 document that has been marked as Shapiro<br/>15 Exhibit 43, which is a computer screen<br/>16 shot. Its Bates stamp is SFG 2394 to 2395.<br/>17 Do you recognize this document,<br/>18 Mr. Shapiro?<br/>19 A I don't.<br/>20 Q Have you used the Principia<br/>21 software?<br/>22 A No.<br/>23 Q So you are not able to tell us<br/>24 what any of the inputs or entries are on<br/>25 these documents?</p>  | <p>1 Peter Shapiro<br/>2 Q Yes.<br/>3 A Yes.<br/>4 Q Do you know what "position<br/>5 date" refers to?<br/>6 A No. You know, it looks like<br/>7 it's a valuation date, but I don't know.<br/>8 Q Okay. And if you turn to the<br/>9 second page of the screen shot, which is<br/>10 2395 --<br/>11 A Yep.<br/>12 Q -- have you -- have you ever<br/>13 seen this type of -- have you ever seen<br/>14 this in the software on the Principia<br/>15 screen?<br/>16 A I have seen this just generally<br/>17 on the screen, but never examined it<br/>18 closely.<br/>19 Q Okay. So in the upper<br/>20 left-hand corner, it says "start and<br/>21 maturity"; do you see that?<br/>22 A Yes.<br/>23 Q And do you know what those<br/>24 dates refer to?<br/>25 A You know, we are talking about</p>   |

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1 Peter Shapiro  
2 the RFA. They look like the start date on  
3 the RFA and the maturity date as we  
4 understood it prior to the correction.  
5 Q Okay. So maturity date of the  
6 RFA is the one for maturity, where it says  
7 30 May 2042?  
8 A Yes.  
9 Q And then there is a green box  
10 that says RCV.  
11 A Yeah.  
12 Q And a couple of boxes down,  
13 there is a blue box that says "pay."  
14 Do you see that?  
15 A Yes.  
16 Q And do you understand what  
17 those sections refer to?  
18 A Receive and pay.  
19 Q In connection with like an  
20 interest rate swap?  
21 A Yes.  
22 Q So the "RCV" would be the  
23 receiving of the fixed amount, and the  
24 "pay" would be the paying of the floating  
25 amount?

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1 Peter Shapiro  
2 A Yes. The way -- the way it's  
3 set up here, you can see RCV has a fixed  
4 amount in it. You can even see that the  
5 button "fixed" is indicated. And then  
6 "pay," you can see it's referencing USD  
7 three-month LIBOR minus 150.  
8 Q And in that "receive," that  
9 fixed amount, it's 4.8484 percent, which is  
10 the guaranteed rate of the RFA?  
11 A A very familiar rate to us in  
12 our discussions, Lauri.  
13 Q And just to make sure the  
14 record is clear, that is the guaranteed  
15 rate of RFA?  
16 A That's what -- that's what it  
17 appears to be.  
18 Q Right. And then the "pay"  
19 section is indicated "USD three-month  
20 LIBOR." That's what you just told me,  
21 correct?  
22 A Yes.  
23 Q And then it says plus and  
24 negative 1.5 percent?  
25 A Correct.

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1 Peter Shapiro  
2 Q And would that represent the  
3 spread to LIBOR used for the floating leg  
4 of the swap?  
5 A Yes.  
6 Q And so would this valuation be  
7 the one done consistent with Mr. Vergara's  
8 E-Mail where he assumed a spread to LIBOR  
9 of minus 150 basis points?  
10 A It looks that way. Now, if you  
11 look at the date, too, on the bottom, it  
12 says "entered at Monday, March 30th," you  
13 know, "11-01-14 2009."  
14 Q And so that date at the bottom  
15 you just directed me to, that's the date  
16 that the calculation was done using the  
17 software?  
18 A Probably. I don't know how  
19 often it updates those dates, you know, if  
20 it's like the original date or -- you know,  
21 sometimes people take software and  
22 overwrite. And you don't know if maybe it  
23 was a date from another one and it was just  
24 overwritten on.  
25 It's hard to tell, but probably

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1 Peter Shapiro  
2 not. Probably, it was a stand-alone.  
3 Q And looking at the "pay"  
4 section where it says "pay USD three-month  
5 LIBOR plus the negative 1.5 percent," that  
6 means to subtract 1.5 percent from the  
7 applicable LIBOR rate, correct?  
8 A Yes.  
9 Q And so if the LIBOR rate was  
10 1 percent, you would subtract 1.5 percent;  
11 and you would have a negative interest rate  
12 of half a percent?  
13 A Not really, because negative  
14 interest rates are not something that we  
15 normally think of. You know, the way you  
16 really have to look at the spread to LIBOR  
17 in these agreements is though it's a spread  
18 to a long-term structure.  
19 So, you know, when a trader  
20 says, "Where is ten-year LIBOR," okay,  
21 or, "Where is 30-year LIBOR," technically,  
22 there is no real LIBOR at ten years or  
23 30 years.  
24 But what they always mean  
25 is, "Where is the ten-year swap," ten-year

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| Page 412   | Page 414  |
|--|---|
| <p>1 Peter Shapiro</p> <p>2 LIBOR swap or a 30-year LIBOR swap.</p> <p>3 So if they say, "I am 30 years</p> <p>4 LIBOR minus 150," they are not saying that</p> <p>5 they expect on the pay side or on the</p> <p>6 floating rate side that you would look at</p> <p>7 today's LIBOR at 24 basis points and make</p> <p>8 that a 24 minus 150 to make it a negative</p> <p>9 interest rate of, say -- you know, what</p> <p>10 does that equal -- you know, negative</p> <p>11 1.26 percent.</p> <p>12 Q But this is the USD three-month</p> <p>13 LIBOR?</p> <p>14 A Correct.</p> <p>15 Q And that would be at various</p> <p>16 points in time it would change, correct?</p> <p>17 A It will change every three</p> <p>18 months.</p> <p>19 Q Right. And so you are saying</p> <p>20 the software does not subtract 1.5 percent</p> <p>21 from the USD three-month LIBOR rate?</p> <p>22 A No, it really subtracts it from</p> <p>23 the structure as a whole because it's not</p> <p>24 going to tell you:</p> <p>25 "All right. On -- you know, on</p> | <p>1 Peter Shapiro</p> <p>2 USD three-month LIBOR?</p> <p>3 A Yeah, it does. It looks at a</p> <p>4 LIBOR swap for this period of time and</p> <p>5 looks at it as though you took 150 off the</p> <p>6 value of the swap. So you could put it on</p> <p>7 either leg and get the same result really.</p> <p>8 Q So does the software use the</p> <p>9 USD three-month LIBOR curve or not?</p> <p>10 A Yes, it does.</p> <p>11 Q Okay. And from --</p> <p>12 A And when it's looking at the</p> <p>13 curve -- remember, what you are saying</p> <p>14 there. The curve is not USD three-month</p> <p>15 LIBOR. USD three-month LIBOR is a floating</p> <p>16 rate set up every three months in US</p> <p>17 dollars.</p> <p>18 But the curve -- and the fact</p> <p>19 that you use the curve is actually</p> <p>20 important. What the curve says is:</p> <p>21 What fixed rate could you swap</p> <p>22 USD three-month LIBOR for as you went</p> <p>23 longer maturities, not at three, not the</p> <p>24 three-month, but as you went one year, five</p> <p>25 years, ten years, thirty years?</p> |
| Page 413   | Page 415  |
| <p>1 Peter Shapiro</p> <p>2 this date, you are paying negative 1.26 and</p> <p>3 on this another date."</p> <p>4 Jay Tambe, in one of the</p> <p>5 earlier depositions with me, went over this</p> <p>6 in great detail, and he kept getting it</p> <p>7 wrong, that is, though -- it's as though</p> <p>8 it's saying LIBOR is going to be a negative</p> <p>9 number.</p> <p>10 It's not. It's the structure.</p> <p>11 Its going to have a negative spread</p> <p>12 embedded in it, and it gets put in that</p> <p>13 box.</p> <p>14 Q I am trying to understand how</p> <p>15 the software works.</p> <p>16 A Yes.</p> <p>17 Q And so the software has an</p> <p>18 input of USD three-month LIBOR, and</p> <p>19 subtracted from that is 1.5 percent,</p> <p>20 correct?</p> <p>21 A Yeah, we have already said</p> <p>22 that, yes.</p> <p>23 Q So how does -- how does the</p> <p>24 software account for the long-term</p> <p>25 discussion you are having? Does it not use</p>   | <p>1 Peter Shapiro</p> <p>2 And so that's really looking at</p> <p>3 the fixed rate. So, you know, you are</p> <p>4 right when you think of this as a deduction</p> <p>5 off the curve. It's a deduction off of</p> <p>6 those fixed rates.</p> <p>7 Q It's a deduction off the USD</p> <p>8 three-month LIBOR curve?</p> <p>9 A "Curve" meaning fixed rates,</p> <p>10 yeah.</p> <p>11 Q Meaning the 4.484 fixed rate?</p> <p>12 A Or really, if you looked at the</p> <p>13 fixed rates, they are implied in swapping</p> <p>14 LIBOR out long-term, the term structure of</p> <p>15 LIBOR, as we call it.</p> <p>16 Q Right. It would be -- but it</p> <p>17 would be not the fixed rate of the</p> <p>18 contract, but the USD three-month LIBOR</p> <p>19 forward curve, correct?</p> <p>20 A The fixed rates that are yield</p> <p>21 date for LIBOR swaps on the day that this</p> <p>22 is run. So in other words, on the day that</p> <p>23 this is run, you are not going to get a</p> <p>24 30-year rate of 4.484 because interest</p> <p>25 rates are much lower by the time you get to</p> |

40 (Pages 412 to 415)

| Page 416  | Page 418   |
|---|--|
| <p>1 Peter Shapiro</p> <p>2 2009.</p> <p>3 Q But you don't deduct that</p> <p>4 1.5 percent from the 4.484?</p> <p>5 A You know, you can look at it</p> <p>6 either way.</p> <p>7 Q But that's not --</p> <p>8 A It's going to get you the same</p> <p>9 thing.</p> <p>10 Q But that's not what this</p> <p>11 software does?</p> <p>12 A You know, it does it all</p> <p>13 combined together, so it's like -- it's</p> <p>14 like you are -- it's not like you are</p> <p>15 saying it only does it one way or the</p> <p>16 other. It's a big series of calculations.</p> <p>17 The best way to think about</p> <p>18 valuation -- the best way to put it in</p> <p>19 layman's terms and common sense and not get</p> <p>20 mixed up with "at what point do you do what</p> <p>21 calculation" is really to say:</p> <p>22 We have a contract with the</p> <p>23 stated fixed rate. We now have a different</p> <p>24 interest rate environment that is higher or</p> <p>25 lower within the same parameters of the --</p>                      | <p>1 Peter Shapiro</p> <p>2 three-month LIBOR?</p> <p>3 A Because that's -- that's</p> <p>4 where -- what you are doing your base curve</p> <p>5 on. That's what you are saying -- the</p> <p>6 fixed rate that you are comparing on. You</p> <p>7 could do six-month LIBOR. You could do it</p> <p>8 against EURIBOR, you know Euro LIBOR.</p> <p>9 You could do it against any</p> <p>10 number of different kinds of indexes that</p> <p>11 will produce different fixed rates.</p> <p>12 Q But you just told me to take</p> <p>13 the first fixed rate of 4.484 percent,</p> <p>14 subtract the spread, 150 basis points.</p> <p>15 Then you PV that. So where does the LIBOR</p> <p>16 curve come in at all?</p> <p>17 A I said you said to define the</p> <p>18 parameters. And that is -- the floating</p> <p>19 rate is one of those parameters.</p> <p>20 Q Okay. So the floating rate,</p> <p>21 just for purposes of this, is 1.5 percent.</p> <p>22 You are saying that comes off of the</p> <p>23 4.484 percent?</p> <p>24 A It comes off the structure is</p> <p>25 what I said.</p> |
| Page 417  | Page 419   |
| <p>1 Peter Shapiro</p> <p>2 of the original swap. And what's the</p> <p>3 difference between the current market and</p> <p>4 the market at the time that the contract</p> <p>5 was entered into?</p> <p>6 If the market at the time the</p> <p>7 inception rate was 4.484, and, in the</p> <p>8 current market, for something structured</p> <p>9 the same way, it would be 1 percent, then</p> <p>10 we have a differential of 3.484.</p> <p>11 And that differential, if you</p> <p>12 PVed it back to today, would be the value.</p> <p>13 Q And that is how you understand</p> <p>14 how the software works?</p> <p>15 A That's how the software does</p> <p>16 work.</p> <p>17 Q Okay. But you also told me you</p> <p>18 weren't familiar with the software and you</p> <p>19 didn't use the software?</p> <p>20 A No, I know how the models work.</p> <p>21 I know the underlying principles --</p> <p>22 Q And so why --</p> <p>23 A So I don't know the details of</p> <p>24 how you operate it.</p> <p>25 Q So why even reference USD</p> | <p>1 Peter Shapiro</p> <p>2 Q And the structure is</p> <p>3 4.484 percent?</p> <p>4 A The structure is 4.484 versus</p> <p>5 three-month LIBOR. What you -- you don't</p> <p>6 want to get to this issue where you get</p> <p>7 into this repeated logical conundrum that</p> <p>8 Jay kept getting caught in, which is</p> <p>9 saying:</p> <p>10 "Well, if you spread 150 off of</p> <p>11 LIBOR, you'd get a nonsense result. You'd</p> <p>12 get negative interest rates."</p> <p>13 He wasn't asking about 150. He</p> <p>14 was asking about the larger spread if we</p> <p>15 put in the valuation, and the loss</p> <p>16 calculation.</p> <p>17 But the reality is, even if you</p> <p>18 put a little spread in these days, you are</p> <p>19 going to get to a negative interest rate.</p> <p>20 (There was a discussion off the</p> <p>21 record.)</p> <p>22 A Get to a negative interest</p> <p>23 rate.</p> <p>24 So you don't want to look at</p> <p>25 this and get caught in the impression that</p>  |

41 (Pages 416 to 419)

| Page 420  | Page 422   |
|---|--|
| <p>1 Peter Shapiro</p> <p>2 you are having some kind of absurd result</p> <p>3 with negative interest rates.</p> <p>4 Q I just want to make sure I</p> <p>5 understand. So you say this software,</p> <p>6 despite setting up a receive leg and a pay</p> <p>7 leg, it, in fact, takes 4.484 percent in</p> <p>8 version one, subtracts 1.5 percent from</p> <p>9 that, and discounts the result to present</p> <p>10 value?</p> <p>11 A I am not saying that. I am</p> <p>12 saying it does it off the structure. And</p> <p>13 the structure as a whole looks at two legs:</p> <p>14 One that we define as 4.484; and one that</p> <p>15 it defines here as USD three-month LIBOR</p> <p>16 minus 150, and looks at it as a whole.</p> <p>17 Q And compares those two legs?</p> <p>18 A Yeah, it doesn't go out and</p> <p>19 say:</p> <p>20 "Okay. On the -- on the</p> <p>21 floating rate, it's going to be negative</p> <p>22 interest rate until LIBOR exceeds 150."</p> <p>23 It never does that.</p> <p>24 Q And how do you know it never</p> <p>25 does that?</p> | <p>1 Peter Shapiro</p> <p>2 document, it's negative 3.874.</p> <p>3 MR. LAWRENCE: Objection to the</p> <p>4 form of the question.</p> <p>5 A It shows a negative 3.874 on</p> <p>6 that pay leg, yes.</p> <p>7 Q And that's consistent with the</p> <p>8 valuation that you did in Lehman 15 that we</p> <p>9 looked at?</p> <p>10 A I believe it is. But let's</p> <p>11 just reference back to Lehman 15, which</p> <p>12 is -- Lehman 15 -- the spread on Lehman 15</p> <p>13 is a negative 3.874, which is the same</p> <p>14 number.</p> <p>15 Q So do you believe version two</p> <p>16 reflects the analysis that is contained in</p> <p>17 Lehman Exhibit 15?</p> <p>18 A Let's take a look again. Okay.</p> <p>19 The number that shows in the little</p> <p>20 window -- do we have a -- do we have a</p> <p>21 value that's shown here?</p> <p>22 Q No, the values weren't provided</p> <p>23 with these screen shots.</p> <p>24 A Okay. You know, we have a</p> <p>25 notional. We have that spread. Yes, it</p> |
| Page 421  | Page 423   |
| <p>1 Peter Shapiro</p> <p>2 A Because it would be a nonsense</p> <p>3 result. Negative interest rates are</p> <p>4 something that creates all sorts of</p> <p>5 problems.</p> <p>6 (Exhibit No. Shapiro 44,</p> <p>7 Version 2 Screen Shot from Principia</p> <p>8 Software, Bates Nos. SFG 2396 to 2397,</p> <p>9 is marked by the reporter for</p> <p>10 identification.)</p> <p>11 Q I am handing you what the court</p> <p>12 reporter has marked as Shapiro Exhibit 44,</p> <p>13 which is Bates stamped SFG 2396 through</p> <p>14 2397, which is version two of the</p> <p>15 Principia --</p> <p>16 A Principia.</p> <p>17 Q -- Principia screen shots.</p> <p>18 These -- this screen shot was -- reflects</p> <p>19 an analysis done on April 21, 2009.</p> <p>20 A It says, "Entered as of</p> <p>21 April 21st."</p> <p>22 Q 2009?</p> <p>23 A 2009.</p> <p>24 Q And if you look at the spread</p> <p>25 to LIBOR on the second page of this</p>  | <p>1 Peter Shapiro</p> <p>2 looks like it.</p> <p>3 Q So you believe that version two</p> <p>4 reflects the analysis that's captured in</p> <p>5 Lehman Exhibit 15?</p> <p>6 A It doesn't it's not reflecting</p> <p>7 a value as you just pointed out to me.</p> <p>8 Q But it's the inputs?</p> <p>9 A It looks like it's got the</p> <p>10 inputs, yes.</p> <p>11 Q It looks like it would be the</p> <p>12 inputs connected with Lehman Exhibit 15,</p> <p>13 correct?</p> <p>14 A Correct.</p> <p>15 (Exhibit No. Shapiro 45,</p> <p>16 Version 3 Screen Shot from Principia</p> <p>17 Software, Bates Nos. SFG 2398 to 2399,</p> <p>18 is marked by the reporter for</p> <p>19 identification.)</p> <p>20 Q I am handing you a document</p> <p>21 what the court reporter has marked as</p> <p>22 Shapiro Exhibit 45, which is titled</p> <p>23 "Version Three" of the Principia screen</p> <p>24 shots, Bates Nos. SFG 2398 through 2399.</p> <p>25 This analysis was done -- it appears --</p>                       |

42 (Pages 420 to 423)



| Page 424   | Page 426  |
|--|---|
| <p>1 Peter Shapiro</p> <p>2 based on the InterDat [phonetic] date on</p> <p>3 April 28, 2010; do you see that?</p> <p>4 A Yes.</p> <p>5 Q And next to that, it says "by</p> <p>6 Shapiro"; do you see that?</p> <p>7 A Yes.</p> <p>8 Q Did you do this analysis?</p> <p>9 A No.</p> <p>10 Q No. Then why is your name</p> <p>11 written in there?</p> <p>12 A I suspect that there is -- I</p> <p>13 suspect that there are parts of the</p> <p>14 Principia system that say -- that have a</p> <p>15 user name. And you start with the user</p> <p>16 name. And they set up one that was in my</p> <p>17 name originally.</p> <p>18 Q And if you look at Exhibit 44,</p> <p>19 where it says "by," there is nothing in</p> <p>20 there.</p> <p>21 A Yes.</p> <p>22 Q So why -- why is it -- when you</p> <p>23 set it up, is your user name not showing up</p> <p>24 in Exhibit 44?</p> <p>25 A I have no idea.</p>   | <p>1 Peter Shapiro</p> <p>2 Q Do you believe that this</p> <p>3 reflects that you became aware that the --</p> <p>4 in April of 2010 that the maturity date was</p> <p>5 May 2032?</p> <p>6 MR. LAWRENCE: Object to the</p> <p>7 form of the question.</p> <p>8 A It's a -- you know, it's hard</p> <p>9 to tell. It looks like that. But it could</p> <p>10 be a data entry error that somebody made as</p> <p>11 well. I doubt it. It looks like it's the</p> <p>12 rate date. So it looks like somebody</p> <p>13 became aware of it on that date in our</p> <p>14 shop.</p> <p>15 Q Now, does the software save the</p> <p>16 different versions -- the software saves</p> <p>17 the different versions that we are looking</p> <p>18 at, correct?</p> <p>19 A I don't know. I don't know, to</p> <p>20 the extent you can overwrite, you save, if</p> <p>21 it saves everything.</p> <p>22 Q So you don't know, if you pull</p> <p>23 up version two and you want to make version</p> <p>24 three, whether you have to type in</p> <p>25 everything from scratch or whether you</p>        |
| Page 425   | Page 427  |
| <p>1 Peter Shapiro</p> <p>2 Q And if you look at Exhibit 43,</p> <p>3 your user name is not showing up in that</p> <p>4 one either?</p> <p>5 A No idea.</p> <p>6 Q Do you recall your user name</p> <p>7 being added between 2009 and 2010?</p> <p>8 A No, my user name would have</p> <p>9 been added when they originally put it in</p> <p>10 because I think somebody had an imaginative</p> <p>11 idea that I might, you know, run the</p> <p>12 modeling myself.</p> <p>13 Q But it's not showing up in the</p> <p>14 first two screen shots?</p> <p>15 A No.</p> <p>16 Q And if you look at the second</p> <p>17 page of Exhibit 45, it has a maturity date</p> <p>18 stated as 30 May 2032. Do you see that?</p> <p>19 A Yes.</p> <p>20 Q Do you recall being aware that</p> <p>21 the maturity date of the Washington RFA was</p> <p>22 May 20, 2032, in April 2010?</p> <p>23 A I don't recall what -- I think</p> <p>24 you asked this earlier. I don't recall</p> <p>25 what day we became aware of that.</p> | <p>1 Peter Shapiro</p> <p>2 affirmatively -- there are some defaults</p> <p>3 already in there?</p> <p>4 A I have no clue.</p> <p>5 Q And so you don't know how that</p> <p>6 2032 date arrived in version three?</p> <p>7 A No.</p> <p>8 Q But you believe it -- you</p> <p>9 believe it to be when you learned that the</p> <p>10 RFA actually matured in 2032?</p> <p>11 A When I look at it sitting here,</p> <p>12 it would be an odd coincidence if it were a</p> <p>13 typo, so, you know, to get the exact right</p> <p>14 date on it. So I would just say guessing,</p> <p>15 speculating, all of the things that I am</p> <p>16 not supposed to do, that somebody at some</p> <p>17 point prior to that found out that 2032 was</p> <p>18 the right date because we know we did find</p> <p>19 that out.</p> <p>20 You know, there was nothing</p> <p>21 nefarious about the change to 2042 to 2032.</p> <p>22 As you know, we weren't originally supplied</p> <p>23 with the correct date.</p> <p>24 Q I'm now handing you a document</p> <p>25 the court reporter has marked as</p> |

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1 Peter Shapiro  
2 Exhibit 46, which is version four of the  
3 screen shots.  
4 (Exhibit No. Shapiro 46,  
5 Version 4 Screen Shot from Principia  
6 Software, Bates Nos. SFG 2400 to 2401,  
7 is marked by the reporter for  
8 identification.)

9 Q It's Bates stamped SFG 2400  
10 through 2401. This is also dated April 28,  
11 2010, and indicates your name in the "by"  
12 line; do you see that?

13 A Yes.

14 Q I don't see any differences  
15 between version three and version four. Do  
16 you know why two versions of the analysis  
17 was done on the same day in April of 2010?

18 A I have no clue.

19 (Exhibit No. Shapiro 47,  
20 Version 5 Screen Shot from Principia  
21 Software, Bates Nos. SFG 2402 to 2403,  
22 is marked by the reporter for  
23 identification.)

24 Q Handing you what has been  
25 marked as Shapiro Exhibit 47, which is

1 Peter Shapiro  
2 on anything else.

3 Q I am handing you a document  
4 that has been marked as Shapiro Exhibit 48,  
5 which is version six of the screen shots.  
6 Its Bates stamp is SFG 2404 through 2405.  
7 It's also dated on June 15, 2010, which is  
8 the same date as version five.

9 Do you see that?

10 A Yes.

11 Q Do you know why two versions of  
12 the analysis were run on the same day in  
13 June 15th, 2010?

14 A You know, I answered previously  
15 I don't know why the first one was run. I  
16 certainly don't know why the second one was  
17 run.

18 Q Okay.

19 (Exhibit No. Shapiro 49,  
20 Version 7 Screen Shot from Principia  
21 Software, Bates Nos. SFG 2406 to 2408,  
22 is marked by the reporter for  
23 identification.)

24 Q I am handling you what has been  
25 marked as Shapiro Exhibit 49, which is

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1 Peter Shapiro  
2 version five of the screen shot, Bates  
3 stamped SFG 2402 through 2403. This is  
4 dated June 15, 2010.

5 Do you see that?

6 A Yes.

7 Q And do you -- and it appears to  
8 be -- it's the same analysis, the same  
9 inputs as we saw in version three and in  
10 version four which were done in April 2010.

11 Do you know any reason that the  
12 analysis was again run in June of 2010?

13 A No idea.

14 (Exhibit No. Shapiro 48,  
15 Version 6 Screen Shot from Principia  
16 Software, Bates Nos. SFG 2404 to 2405,  
17 is marked by the reporter for  
18 identification.)

19 Q And on -- I'm sorry. On  
20 Shapiro Exhibit 47, it does say "by  
21 Shapiro"; but you did not run that  
22 analysis?

23 A No, I have never -- as I  
24 said -- I just repeat. I have never run an  
25 analysis in Principia, not on this and not

1 Peter Shapiro  
2 version seven of the screen shots. Its  
3 Bates stamp is SFG 2406 through 2408. Do  
4 you see that?

5 A Yes.

6 Q And this analysis indicates  
7 that it was run on June 16, 2010. Do you  
8 see that?

9 A Yes.

10 Q And if you turn to the second  
11 page of the screen shot, the maturity date  
12 has been changed to 30 May 2042. Do you  
13 see that?

14 A I can't say it has been changed  
15 to that. I can just say it shows that.

16 Q Okay. In version six it shows  
17 2032, correct?

18 A Right, yes.

19 Q So you don't think it's a  
20 change from 2032 to 2042?

21 A You characterize -- you can see  
22 that it has been changed, you know. I  
23 can't characterize it. I can just say it  
24 says 2042.

25 Q Okay. Do you know why it was

44 (Pages 428 to 431)

| Page 432  | Page 434  |
|---|---|
| <p>1 Peter Shapiro<br/>2 changed to 2042?<br/>3 A I'm not --<br/>4 MR. LAWRENCE: Objection --<br/>5 object to the form of the question.<br/>6 It's argumentative. It's assuming<br/>7 facts not in evidence.<br/>8 Q Do you believe that there was a<br/>9 change in the maturity date between version<br/>10 six and version seven of the software?<br/>11 A I believe it's self-evident<br/>12 from reading it that one of them has 2042<br/>13 and one of them has 2032. That's all I can<br/>14 say.<br/>15 Q And why was the analysis in<br/>16 version seven of the software Exhibit 49<br/>17 run as of 2042?<br/>18 A I have no clue.<br/>19 Q Why wasn't it run as of 2032?<br/>20 MR. LAWRENCE: Object to the<br/>21 form.<br/>22 A If I didn't have a clue as to<br/>23 2042, I couldn't have an idea about what<br/>24 was in 2032. I think you are badgering me<br/>25 here.</p>   | <p>1 Peter Shapiro<br/>2 A Let me just confirm that before<br/>3 I answer. Six, yes. Five, yes. Four,<br/>4 yes. Three, yes.<br/>5 Q And if you turn the page to<br/>6 Bates stamp 2408, it does the analysis --<br/>7 it reflects the analysis was done assuming<br/>8 a spread to LIBOR of minus 20 basis points;<br/>9 do you see that?<br/>10 MR. LAWRENCE: Object to the<br/>11 form.<br/>12 A Yes. I see that.<br/>13 Q Why was that analysis done?<br/>14 A I have no idea.<br/>15 Q You don't recall any<br/>16 discussions of the need to value the<br/>17 reserve fund agreement assuming LIBOR minus<br/>18 20 basis points?<br/>19 A I don't.<br/>20 Q Would your staff have run an<br/>21 analysis of the reserve fund agreement<br/>22 without discussing it with you.<br/>23 MR. LAWRENCE: Objection.<br/>24 Calls for speculation.<br/>25 A They certainly could. They</p>  |
| Page 433  | Page 435  |
| <p>1 Peter Shapiro<br/>2 Q Who would know why the maturity<br/>3 date changed between version six to version<br/>4 seven of 2032 to 2042?<br/>5 A I don't know. You know,<br/>6 whoever did this, you know, logged in under<br/>7 Shapiro, you know my name, so you can't<br/>8 tell.<br/>9 Q And who was doing the analysis<br/>10 of the RFA in June of 2010?<br/>11 A It would have most likely been<br/>12 either James Vergara or Lilian Chern, but I<br/>13 can't tell.<br/>14 Q And you had -- do you recall<br/>15 any discussions about the need to value the<br/>16 RFA in June of 2010 assuming a maturity of<br/>17 2042?<br/>18 A Not that I can recall.<br/>19 Q And if you look at page 2407,<br/>20 it assumes a spread to LIBOR of minus<br/>21 3.874 percent; do you see that?<br/>22 A Yes.<br/>23 Q And that's consistent with the<br/>24 numbers we have seen in versions three<br/>25 through six, correct?</p> | <p>1 Peter Shapiro<br/>2 don't clear with me ever running an<br/>3 analysis. Their job is to be mature<br/>4 people, thinking on their feet, and going<br/>5 through anything they think might be<br/>6 relevant.<br/>7 Q And you don't recall any<br/>8 discussion with anyone about valuing the<br/>9 reserve fund agreement at LIBOR minus<br/>10 20 basis points?<br/>11 A I can't recall anything like<br/>12 that.<br/>13 Q Either internally or with<br/>14 Washington TSA?<br/>15 A No.<br/>16 You did introduce previously<br/>17 another exhibit that I think had a LIBOR<br/>18 minus 20 indication; didn't you?<br/>19 Q Yes, there is one.<br/>20 A Yeah, so it could have been --<br/>21 it could have been along with that. But<br/>22 it's just speculating for me. I don't<br/>23 know.<br/>24 Q So you don't have any<br/>25 discussion of needing to value the LIBOR</p> |

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| <p>1 Peter Shapiro<br/>2 minus 20?<br/>3 A Not that I can recall.<br/>4 Q You don't recall any discussion<br/>5 of -- let me restate that.<br/>6 Do you recall valuing the<br/>7 reserve fund agreement and any other<br/>8 spreads to LIBOR other than LIBOR minus 150<br/>9 and LIBOR minus 3.874?<br/>10 A I generally recall we looked at<br/>11 lots of scenarios.<br/>12 Q And why did you look at those<br/>13 other scenarios?<br/>14 A Trying to see where Lehman<br/>15 might come in. Trying to look at what, you<br/>16 know, other concepts might be, how much<br/>17 would it affect the, you know, the<br/>18 valuation level.<br/>19 Q Where did you think Lehman<br/>20 would come in?<br/>21 A I don't recall forming an<br/>22 opinion on that. You know, we had --<br/>23 remember, I recorded in those notes that<br/>24 you read in the prior exhibit some<br/>25 discussions with the Lehman team.</p>  | <p>1 Peter Shapiro<br/>2 Washington TSA, to get paid fairly for<br/>3 Lehman's failure to fulfill its contract.<br/>4 And we know Lehman had a strong<br/>5 incentive to short-change Washington TSA<br/>6 and continues to this date to try to do so.<br/>7 Q And so you assume that LIBOR<br/>8 minus 20 was your attempt to reflect where<br/>9 you thought Lehman would value the<br/>10 contract?<br/>11 A Perhaps.<br/>12 (Exhibit No. Shapiro 50,<br/>13 Version 8 Screen Shot from Principia<br/>14 Software, Bates Nos. SFG 2409 to 2411,<br/>15 is marked by the reporter for<br/>16 identification.)<br/>17 Q I am handing you what the court<br/>18 reporter has marked as Shapiro Exhibit 50,<br/>19 which is version eight of the screen shots,<br/>20 Bates stamped SFG 2409 through 2411. It's<br/>21 also dated June 16, 2010, as is version<br/>22 seven.<br/>23 Do you have any idea why<br/>24 initial analyses were run on June 16, 2010?<br/>25 A No.</p> |
| Page 437   | Page 439  |
| <p>1 Peter Shapiro<br/>2 And at that point, maybe they<br/>3 threw out a spread number. You know, we<br/>4 would have to go back to my notes if I<br/>5 reflected that. It's possible that it was<br/>6 something they threw out. I don't know.<br/>7 Q And you said you did other<br/>8 spreads to LIBOR to see how they would<br/>9 affect the valuation?<br/>10 A I said we may have done that.<br/>11 Q And do you recall what other<br/>12 spreads to LIBOR you considered?<br/>13 A No, we wanted to look at what<br/>14 we thought was the proper spread based upon<br/>15 rigorously examined inputs that would be<br/>16 fair and reasonable.<br/>17 Q And you looked at LIBOR minus<br/>18 20 basis points?<br/>19 A No, we -- if we looked at LIBOR<br/>20 minus 20, it certainly wasn't based upon a<br/>21 rigorous analysis as to what was fair and<br/>22 reasonable. It was based upon what Lehman<br/>23 would try to assert in their own<br/>24 self-interest to try to minimize the amount<br/>25 they had to pay on the legitimate claims of</p> | <p>1 Peter Shapiro<br/>2 Q And it indicates it's "by<br/>3 Shapiro." But you did not run this<br/>4 analysis?<br/>5 A Exactly.<br/>6 Q And it also reflects on pages<br/>7 2410 and 2411 that the maturity date is<br/>8 May 2042?<br/>9 A Correct.<br/>10 Q And do you recall there being<br/>11 discussion about the appropriateness of<br/>12 using May 2042 as the analysis date in<br/>13 June 2010?<br/>14 A I have -- again, I don't recall<br/>15 what date it was when we looked at -- when<br/>16 we realized that it should be 2032.<br/>17 Q And if you look at page 2410,<br/>18 it shows a spread to LIBOR of minus<br/>19 1.1 percent; do you see that?<br/>20 A Yes.<br/>21 Q What does that spread to LIBOR<br/>22 represent?<br/>23 A It doesn't -- it doesn't ring<br/>24 any bells with me.<br/>25 Q And do you believe that to be</p>  |

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| Page 440  | Page 442   |
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| <p>1 Peter Shapiro</p> <p>2 an evaluation of where you thought Lehman</p> <p>3 might come in?</p> <p>4 A I have no -- I really have no</p> <p>5 clue.</p> <p>6 Q And do you believe that it was</p> <p>7 an analysis that Swap Financial did to</p> <p>8 assess the reasonableness of its valuation?</p> <p>9 A Reasonable of Swap Financial's</p> <p>10 valuation?</p> <p>11 Q Yes.</p> <p>12 A No.</p> <p>13 Q You have no idea why Swap</p> <p>14 Financial used 1.1 percent in this analysis</p> <p>15 done on June 10, 2010?</p> <p>16 A That's what I said.</p> <p>17 Q And then if you turn to</p> <p>18 page 2411, it shows the swap -- I'm</p> <p>19 sorry -- the spread to LIBOR being minus</p> <p>20 20 basis points; do you see that?</p> <p>21 A Yes.</p> <p>22 Q And why was that analysis run</p> <p>23 again on June 2010?</p> <p>24 A I have no clue.</p> <p>25 (Exhibit No. Shapiro 51,</p>  | <p>1 Peter Shapiro</p> <p>2 Q And do you know -- and do you</p> <p>3 recall anything going on in connection with</p> <p>4 TSA or its discussions with Lehman in</p> <p>5 June 2010 that would necessitate this</p> <p>6 analysis?</p> <p>7 A I could go back and look at my</p> <p>8 calendar if there was some discussion going</p> <p>9 on; or, if you have another exhibit that</p> <p>10 shows that there were E-Mails going back</p> <p>11 and forth, that would help, but nothing I</p> <p>12 can recall as I sit here.</p> <p>13 (Exhibit No. Shapiro 52,</p> <p>14 Version 10 Screen Shot from Principia</p> <p>15 Software, Bates Nos. SFG 2415 to 2417,</p> <p>16 is marked by the reporter for</p> <p>17 identification.)</p> <p>18 Q Now handing you a document that</p> <p>19 has been marked as Shapiro Exhibit 52,</p> <p>20 which is version ten of the analysis done</p> <p>21 by the Principia software screen shots, so</p> <p>22 it's Bates stamped SFG 2415 through 2417.</p> <p>23 It appears, based upon the first page, that</p> <p>24 that analysis was done on June 22, 2010.</p> <p>25 Do you see that?</p> |
| Page 441  | Page 443   |
| <p>1 Peter Shapiro</p> <p>2 Version 9 Screen Shot from Principia</p> <p>3 Software, Bates Nos. SFG 2412 to 2414,</p> <p>4 is marked by the reporter for</p> <p>5 identification.)</p> <p>6 Q I am handing you a document</p> <p>7 that has been marked as Shapiro Exhibit 51,</p> <p>8 which is version nine of the screen shots,</p> <p>9 Bates stamped SFG 2412 through 2414. It</p> <p>10 reflects that the analysis was done also on</p> <p>11 June 16, 2010. And it appears to be</p> <p>12 identical with version eight of the screen</p> <p>13 shot.</p> <p>14 Do you know why the analysis</p> <p>15 was run yet again on June -- June 16, 2010?</p> <p>16 A I can see this was done</p> <p>17 36 minutes after the last one you asked me</p> <p>18 the questions about. The answers are going</p> <p>19 to be the same.</p> <p>20 Q So you have no idea why --</p> <p>21 A Same answers from last time.</p> <p>22 Q I'm sorry.</p> <p>23 You have no idea why three sets</p> <p>24 of analyses were done on June 16, 2010?</p> <p>25 A No.</p> | <p>1 Peter Shapiro</p> <p>2 A Yes.</p> <p>3 Q Do you have any idea why</p> <p>4 additional analyses were run six days later</p> <p>5 of the RFA?</p> <p>6 A No.</p> <p>7 Q And do you recall discussions</p> <p>8 on June 22, 2010, about the need for the</p> <p>9 analysis to be run through May 2042?</p> <p>10 A I have no such recollection.</p> <p>11 Q And in this analysis the two</p> <p>12 spreads to LIBOR that were being considered</p> <p>13 are 3.874 and the minus 20 basis points,</p> <p>14 correct?</p> <p>15 A Correct.</p> <p>16 (Exhibit No. Shapiro 53,</p> <p>17 Version 11 Screen Shot from Principia</p> <p>18 Software, Bates Nos. SFG 2418 to 2420,</p> <p>19 is marked by the reporter for</p> <p>20 identification.)</p> <p>21 Q I am handing you a document</p> <p>22 that has been marked as Shapiro Exhibit 53,</p> <p>23 which is version 11 of the screen shots.</p> <p>24 It's Bates stamped 2418 through 2420.</p> <p>25 According to the cover sheet, this analysis</p>  |

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| <p>1 Peter Shapiro<br/>2 was run on June 23, 2010.<br/>3 Do you see that?<br/>4 A Yes.<br/>5 Q Do you have any ideas why this<br/>6 analysis was run a day after the analysis<br/>7 done in version ten?<br/>8 A No.<br/>9 Q And the analysis here also<br/>10 contains the two spreadsheets to LIBOR seen<br/>11 in version ten, the 3.874 and the 20 basis<br/>12 points, correct?<br/>13 A I see that.<br/>14 Q And both of those are negative<br/>15 spreads to LIBOR, correct?<br/>16 MR. LAWRENCE: Objection to the<br/>17 form.<br/>18 A Both of them say -- have a<br/>19 minus sign in front of them.<br/>20 Q And you did not do this<br/>21 analysis either?<br/>22 A What did I say earlier?<br/>23 Q You haven't done any of these<br/>24 analyses, but I just want to make sure<br/>25 because they have your name on them.</p>   | <p>1 Peter Shapiro<br/>2 Q And it also contains the same<br/>3 spreads to LIBOR, the minus 3.874 and the<br/>4 minus 20 basis points, correct?<br/>5 A Correct.<br/>6 Q And you don't know why this<br/>7 analysis was done?<br/>8 A No, all I can speculate at this<br/>9 point is that perhaps it was to kill trees<br/>10 on all of these printouts that have been<br/>11 done.<br/>12 That was an attempt at humor<br/>13 just for the record.<br/>14 (Exhibit No. Shapiro 55,<br/>15 Version 13 Screen Shot from Principia<br/>16 Software, Bates Nos. SFG 2424 to 2426,<br/>17 is marked by the reporter for<br/>18 identification.)<br/>19 Q The court reporter has handed<br/>20 you a document that has been marked as<br/>21 Shapiro Exhibit 55, which is Bates stamped<br/>22 SFG 2424 through 2426, version 13 of the<br/>23 screen shots. It appears to have been done<br/>24 on July 14, 2010.<br/>25 Do you see that?</p> |
| Page 445  | Page 447   |
| <p>1 Peter Shapiro<br/>2 A Okay. What did I say about<br/>3 that issue, though?<br/>4 Q I'd prefer you testify that<br/>5 none of these --<br/>6 A I have never logged onto this<br/>7 system for doing analyses. I'll just make<br/>8 sure that's clear, not just for this, but<br/>9 for any other analysis.<br/>10 (Exhibit No. Shapiro 54,<br/>11 Version 12 Screen Shot from Principia<br/>12 Software, Bates Nos. SFG 2421 to 2422,<br/>13 is marked by the reporter for<br/>14 identification.)<br/>15 Q The court reporter has handed<br/>16 you a document that has been marked as<br/>17 Shapiro Exhibit 54, which is version 12 of<br/>18 the screen shots, Bates numbered SFG 2421<br/>19 through 2423. It appears that this<br/>20 analysis was done on June 23, 2010.<br/>21 Do you see that?<br/>22 A Yes.<br/>23 Q Which is the same day as the<br/>24 analysis done on version 11?<br/>25 A Three hours later.</p> | <p>1 Peter Shapiro<br/>2 A Yes.<br/>3 Q Do you have any idea why the<br/>4 analysis was run again on July 14, 2010?<br/>5 A No.<br/>6 Q And as with version 11 and<br/>7 version 12, the same spreads to LIBOR are<br/>8 used of the minus 3.874 percent and the<br/>9 minus 20 basis points; do you see that?<br/>10 A I see that.<br/>11 Q And the maturity date is the<br/>12 same as seen in version 11 and version 12<br/>13 showing May 2042, correct?<br/>14 A That's what it says.<br/>15 Q And you don't know why this was<br/>16 done?<br/>17 A No.<br/>18 MR. LAWRENCE: Can we take a<br/>19 two-minute break?<br/>20 MS. SAWYER: Sure.<br/>21 THE VIDEOGRAPHER: Off of the<br/>22 record. The time is 2:17 p.m.; we are<br/>23 going off the record.<br/>24 (A break is taken.)<br/>25 THE VIDEOGRAPHER: The time is</p>   |

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| <p>1 Peter Shapiro</p> <p>2 2:22 p.m., October 16, 2014. This is</p> <p>3 tape number three in the videotaped</p> <p>4 deposition of Mr. Peter Shapiro.</p> <p>5 CONTINUED EXAMINATION</p> <p>6 BY MS. SAWYER:</p> <p>7 Q The screen shots that we were</p> <p>8 looking at in 2010 where your name is</p> <p>9 listed in the "by" line -- do you recall?</p> <p>10 A Yes.</p> <p>11 Q And who would have been doing</p> <p>12 that analysis on the Principia software?</p> <p>13 A It would have to be -- you</p> <p>14 know, there are three people who used this</p> <p>15 system primarily, or would have been using</p> <p>16 it at that time: James Vergara, Lilian</p> <p>17 Chern, and Jim Murphy.</p> <p>18 Jim Murphy didn't work on this</p> <p>19 at all, so it would be one of those, one of</p> <p>20 the first two.</p> <p>21 Q And was Mr. Vergara still at</p> <p>22 Swap Financial in July of 2010?</p> <p>23 A I can't remember the date he</p> <p>24 left. We -- did we establish that</p> <p>25 previously?</p>                           | <p>1 Peter Shapiro</p> <p>2 A Yes.</p> <p>3 Q And if you look at the "by"</p> <p>4 line, it's by Chern; do you see that?</p> <p>5 A Yes.</p> <p>6 Q If Ms. Chern had done the</p> <p>7 earlier analyses, do you know why she</p> <p>8 wouldn't have logged in as herself?</p> <p>9 MR. LAWRENCE: Objection.</p> <p>10 Calls for speculation.</p> <p>11 A She -- if she -- if she was</p> <p>12 trying to open something that had already</p> <p>13 been created under a different log, then</p> <p>14 she might have logged in as somebody else.</p> <p>15 Q But this is version 16 of the</p> <p>16 same analysis, correct?</p> <p>17 A Yes, it looks like it.</p> <p>18 Q Okay. I mean, it says</p> <p>19 version -- it says "rev 16"; do you see</p> <p>20 that?</p> <p>21 A Yes.</p> <p>22 Q Do you have any reason to doubt</p> <p>23 that's not version 16 of the same analysis?</p> <p>24 A I don't know how that -- how it</p> <p>25 works down there.</p>  |
| Page 449   | Page 451  |
| <p>1 Peter Shapiro</p> <p>2 Q I am asking you the question if</p> <p>3 you know if he was there in July of 2010.</p> <p>4 A I answered I can't remember.</p> <p>5 Q So looking at Shapiro</p> <p>6 Exhibit 55, which is dated July 2010, where</p> <p>7 it says "Shapiro," that analysis either</p> <p>8 would have been done by Ms. Chern or</p> <p>9 Mr. Vergara?</p> <p>10 A I believe so.</p> <p>11 (Exhibit No. Shapiro 56,</p> <p>12 Principia Screen Shot: Termination</p> <p>13 Date 2042, Market Value as of 3/25/09,</p> <p>14 Bates Nos. SFG 2388 to 2389, is marked</p> <p>15 by the reporter for identification.)</p> <p>16 Q I am handing you a document</p> <p>17 that has been marked as Shapiro Exhibit 56,</p> <p>18 which is -- if you look at the bottom, it's</p> <p>19 version 16 of the screen shots. And its</p> <p>20 Bates stamps are 2388 and 2389.</p> <p>21 Do you see that?</p> <p>22 A Correct.</p> <p>23 Q And according to the InterDat</p> <p>24 date, this analysis was done on May 7,</p> <p>25 2012; do you see that?</p> | <p>1 Peter Shapiro</p> <p>2 Q Okay. And here the analysis is</p> <p>3 done of a LIBOR spread of a minus</p> <p>4 3.874 percent on both pages; do you see</p> <p>5 that?</p> <p>6 MR. LAWRENCE: Object to the</p> <p>7 form.</p> <p>8 A I see that.</p> <p>9 Q And it's done as of two</p> <p>10 different maturity dates; do you see that?</p> <p>11 A Yes.</p> <p>12 Q Why the two maturity dates?</p> <p>13 A My guess is, looking at the</p> <p>14 date. This was around the time that we</p> <p>15 found out -- this is right around the time</p> <p>16 of the mediation. And I think that was</p> <p>17 around the time we found out about the</p> <p>18 change in the dates.</p> <p>19 But, you know, again, as I</p> <p>20 testified earlier, I'm not certain when we</p> <p>21 found out about it. But I am remembering</p> <p>22 it being around the time of the mediation.</p> <p>23 MR. LAWRENCE: Just to make</p> <p>24 sure the record is clear, these are</p> <p>25 the two that I sent you. And they</p> |

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| <p>1 Peter Shapiro<br/>2 were printed by Lilian Chern around<br/>3 the date that you received them.<br/>4 MS. SAWYER: Okay.<br/>5 MR. LAWRENCE: Just because<br/>6 these are not -- these were -- you<br/>7 know, the stuff on the top here was<br/>8 put on by Ms. Chern, not by Principia.<br/>9 MS. SAWYER: There is a<br/>10 different format of these versus the<br/>11 other screen shots we looked at.<br/>12 MR. LAWRENCE: Only that<br/>13 there's a narrative on the top line.<br/>14 That's -- I just want to make that<br/>15 clear.<br/>16 MS. SAWYER: Okay.<br/>17 Q And you believe that in<br/>18 May 2012 was around the time that Swap<br/>19 Financial learned that the maturity date of<br/>20 the RFA was 2032?<br/>21 A We have gone over this before.<br/>22 I am trying to remember. You know, we<br/>23 look -- I, you know -- sitting -- sitting<br/>24 here for me to try to recall from my memory<br/>25 as I sit here doesn't really help.</p> | <p>1 Peter Shapiro<br/>2 So if him needing to know the date of<br/>3 the mediation is critical for him to<br/>4 explain why there are two maturity<br/>5 dates, we can go back and look and<br/>6 spend the time to do that; or we could<br/>7 move on to my next question.<br/>8 MR. LAWRENCE: Well, I think,<br/>9 as I said, 56 was printed out at my<br/>10 request in whatever -- 2013, or<br/>11 whenever I sent it to you, 2014. So<br/>12 that's why these two particular ones<br/>13 were created and printed.<br/>14 Q Are you aware of any subsequent<br/>15 versions to the version of the analysis<br/>16 done, reflected in Shapiro Exhibit 16,<br/>17 which was done on or around May 7, 2012?<br/>18 MR. LAWRENCE: Shapiro 16.<br/>19 A 16?<br/>20 Q 56, sorry.<br/>21 A Am I aware -- could you read<br/>22 that back, please.<br/>23 Q I will just restate it.<br/>24 Okay. Are you aware of any<br/>25 subsequent valuations using the Principia</p> |
| Page 453  | Page 455  |
| <p>1 Peter Shapiro<br/>2 Obviously, we found out<br/>3 factually on a certain date when the<br/>4 maturity changed. I know we knew it before<br/>5 the mediation because it was an issue going<br/>6 into the mediation, you know, that we had<br/>7 found out about that.<br/>8 Q And since version 16 that<br/>9 was --<br/>10 A You had said earlier, Lauri --<br/>11 what was the date of the mediation?<br/>12 Q This isn't -- this isn't a<br/>13 situation where we ask questions -- you ask<br/>14 questions of me. I ask questions of you.<br/>15 A Could I ask him to read back<br/>16 the record to find what you said the date<br/>17 of the mediation was.<br/>18 Q I think you have answered my<br/>19 question. I will ask my next question.<br/>20 A Okay.<br/>21 MR. LAWRENCE: You have given<br/>22 him that information before, but<br/>23 whatever.<br/>24 MS. SAWYER: I mean, my<br/>25 question was why two maturity dates.</p>                       | <p>1 Peter Shapiro<br/>2 software by Swap Financial after May 7,<br/>3 2012, as reflected in Shapiro Exhibit 56?<br/>4 A No.<br/>5 Q So since that time no one has<br/>6 logged onto the software to conduct a<br/>7 subsequent analysis?<br/>8 A I can't say that. You asked me<br/>9 if I was aware of it. I am not aware of<br/>10 it.<br/>11 Q You are not aware of any?<br/>12 A No, I don't track this -- you<br/>13 know, the software as I mentioned before.<br/>14 Q So there has been no analysis<br/>15 done of the new spread to LIBOR implied by<br/>16 your rebuttal report?<br/>17 A Not that -- I am not certain.<br/>18 I don't know.<br/>19 Q Who would know?<br/>20 A Lilian might know.<br/>21 Q But you are not aware of a<br/>22 valuation being done in connection with<br/>23 your rebuttal report?<br/>24 A I have to look back at the<br/>25 rebuttal report and read it over because</p>   |

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| <p>1 Peter Shapiro</p> <p>2 the rebuttal report indicated something had</p> <p>3 been done. You know, it would indicate a</p> <p>4 new value. If it shows a new value, it</p> <p>5 would imply that a new valuation had been</p> <p>6 done.</p> <p>7 Q I am handing you a document</p> <p>8 that has been premarked Lehman Exhibit 12,</p> <p>9 which is a -- for the record, is a</p> <p>10 declaration from you, Peter Shapiro, dated</p> <p>11 January 14, 2009. And, specifically, I</p> <p>12 wanted to turn to paragraph seven of your</p> <p>13 declaration where you provide a valuation</p> <p>14 of the RFA as of January 12, 2009.</p> <p>15 Do you see that?</p> <p>16 A Yes, I see that.</p> <p>17 (Previously Marked Exhibit No.</p> <p>18 Lehman 12, Declaration of Peter</p> <p>19 Shapiro, Bates Nos. LBHI WTSA 16384 to</p> <p>20 16389 is introduced into the</p> <p>21 proceedings.)</p> <p>22 Q And if you look at Shapiro</p> <p>23 Exhibit 43, which is version one of the</p> <p>24 screen shots --</p> <p>25 A I have got it.</p> | <p>1 Peter Shapiro</p> <p>2 you a document that has been marked as</p> <p>3 Shapiro Exhibit 57, which is Bates stamped</p> <p>4 SFG 2322 through 2324, which is an E-Mail</p> <p>5 chain. And the first E-Mail is dated</p> <p>6 April 30, 2012.</p> <p>7 Let me know when you have had a</p> <p>8 chance to review it.</p> <p>9 A Okay.</p> <p>10 MR. LAWRENCE: I don't think</p> <p>11 this was a document that was recently</p> <p>12 produced.</p> <p>13 MS. SAWYER: Really? I feel</p> <p>14 quite certain that this one was</p> <p>15 recently produced.</p> <p>16 MR. LAWRENCE: I am going -- I</p> <p>17 am going off the index that was</p> <p>18 provided to you.</p> <p>19 MS. SAWYER: I mean -- I mean,</p> <p>20 if you want -- I probably have a</p> <p>21 couple of questions on it. If you</p> <p>22 want tell me not to, we can --</p> <p>23 MR. LAWRENCE: No, I mean, if</p> <p>24 you just have a couple of questions,</p> <p>25 it's fine. I am looking at the index.</p> |
| Page 457   | Page 459  |
| <p>1 Peter Shapiro</p> <p>2 Q That was done, we established,</p> <p>3 on or around March 30, 2009; do you see</p> <p>4 that?</p> <p>5 A It says "entered" on that date.</p> <p>6 Q Was the valuation found in</p> <p>7 Shapiro -- or I'm sorry -- in Lehman</p> <p>8 Exhibit 12, was that calculated with the</p> <p>9 use of the Principia software?</p> <p>10 A I don't know.</p> <p>11 Q You don't know how it was</p> <p>12 calculated?</p> <p>13 A No.</p> <p>14 Q You weren't aware of any screen</p> <p>15 shots that might reflect the spread to</p> <p>16 LIBOR implied in that valuation?</p> <p>17 A No.</p> <p>18 (Exhibit No. Shapiro 57, E-Mail</p> <p>19 chain, top E-Mail dated 4/30/12 from</p> <p>20 Peter Shapiro to Carol Johnson and</p> <p>21 Lilian Chern; Subject: TSA -- Lehman</p> <p>22 Call Today, Bates Nos. SFG 2322 to</p> <p>23 2324, is marked by the reporter for</p> <p>24 identification.)</p> <p>25 Q The court reporter has handed</p>   | <p>1 Peter Shapiro</p> <p>2 I don't see it on it. So --</p> <p>3 MS. SAWYER: I tried to -- I</p> <p>4 tried to focus only on the documents</p> <p>5 that we had gotten. So --</p> <p>6 A I have read through it.</p> <p>7 Q If you look at the third E-Mail</p> <p>8 down from Lilian Chern to Carol Johnson and</p> <p>9 Peter Shapiro that starts, "Carol, I have</p> <p>10 incorporated our analysis"; do you see</p> <p>11 that?</p> <p>12 A Yes.</p> <p>13 Q "Carol, I have incorporated our</p> <p>14 analysis on the LIBOR spread components</p> <p>15 into Bob's spreadsheet so we can see some</p> <p>16 actual numbers under different scenarios</p> <p>17 and tweak any assumptions if we need to."</p> <p>18 Do you see that?</p> <p>19 A Yes.</p> <p>20 Q Do you know what "Bob's</p> <p>21 spreadsheet" is?</p> <p>22 A No.</p> <p>23 Q Do you know what analysis Swap</p> <p>24 Financial was doing on LIBOR spread</p> <p>25 components?</p>                                  |

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| Page 460   | Page 462  |
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| <p>1 Peter Shapiro<br/>2 MR. LAWRENCE: I am going to<br/>3 instruct him not to answer because<br/>4 this relates to analysis that was done<br/>5 for purposes of mediation. These<br/>6 particular documents -- it doesn't<br/>7 reveal the substance, but your<br/>8 question goes into the substance of<br/>9 what was done for purposes of the<br/>10 mediation.<br/>11 (There was an instruction not<br/>12 to answer.)<br/>13 MS. SAWYER: Either one of you<br/>14 answer this.<br/>15 But just to be clear, so there<br/>16 was a LIBOR spread component analysis<br/>17 done for purposes of the mediation, or<br/>18 is that a question that --<br/>19 MR. LAWRENCE: I don't -- I<br/>20 don't know. But if it was done, which<br/>21 Lilian -- I don't have any reason to<br/>22 doubt Lilian's veracity.<br/>23 MS. SAWYER: Okay. So we are<br/>24 cutting off further questions or --<br/>25 MR. LAWRENCE: I mean, I guess,</p>   | <p>1 Peter Shapiro<br/>2 Q And do you know if that<br/>3 spreadsheet that Mr. Cook prepared<br/>4 projected any future losses past that<br/>5 specific date?<br/>6 A I don't believe so.<br/>7 Q And has Swap Financial done any<br/>8 analysis of that spreadsheet relating to<br/>9 its LIBOR spread?<br/>10 A Relating to whose LIBOR spread?<br/>11 Q Relating to the LIBOR spread of<br/>12 those assumptions that Mr. Cook has.<br/>13 A His weren't assumptions. They<br/>14 were actual losses.<br/>15 Q Do you know what this phrase<br/>16 means that -- "our analysis on the LIBOR<br/>17 spread components into Bob's<br/>18 spreadsheet" -- do you have any<br/>19 understanding of how the LIBOR spread<br/>20 components would interact with Mr. Cook's<br/>21 spreadsheet?<br/>22 A In terms of the reference to<br/>23 "Bob's spreadsheet" here? You asked me a<br/>24 different question. Maybe -- there may<br/>25 have been -- this may not have been the</p> |
| Page 461   | Page 463  |
| <p>1 Peter Shapiro<br/>2 if you want to ask him, "Do you know<br/>3 whether or not a LIBOR spread<br/>4 component was done," you can ask that.<br/>5 What I don't want to get into is any<br/>6 substantive questions about what was<br/>7 in either Bob's spreadsheet or the<br/>8 LIBOR components that were done for<br/>9 purposes of the mediation.<br/>10 So if you can ask a question<br/>11 that draws -- whatever, walks that<br/>12 line, that's fine.<br/>13 Q Are you aware that Mr. Cook<br/>14 prepared a spreadsheet where he purported<br/>15 to calculate TSA's actual losses?<br/>16 A By "actual losses," can I ask<br/>17 you what you mean?<br/>18 Q Well, that's what Mr. Cook<br/>19 calls the spreadsheet. So are you familiar<br/>20 with the spreadsheet where Mr. Cook<br/>21 purports to calculate actual losses as he<br/>22 defines them?<br/>23 A I'm aware of a spreadsheet<br/>24 where Mr. Cook calculated the actual losses<br/>25 you through a certain date. Yes.</p> | <p>1 Peter Shapiro<br/>2 same spreadsheet I was aware of that was<br/>3 calculating actual cash losses to date.<br/>4 That would not have required<br/>5 any LIBOR spread analysis. That was based<br/>6 on hard numbers.<br/>7 Q And do you -- are you -- do you<br/>8 recall any analysis done by Swap Financial<br/>9 relating to the spreadsheet that you are<br/>10 describing Mr. Cook calculated of actual<br/>11 losses?<br/>12 A Any analysis we would have done<br/>13 on it, I don't believe so. This was --<br/>14 that was his analysis looking at the actual<br/>15 cash losses.<br/>16 Q And so you don't know what this<br/>17 is referring to in terms of Lilian's report<br/>18 about "incorporating our analysis" into the<br/>19 spreadsheet?<br/>20 A Into Bob's spreadsheet, no.<br/>21 Q Okay.<br/>22 MS. SAWYER: If we just take a<br/>23 break, because I want to look at the<br/>24 documents you sent me, but then I am<br/>25 close to done.</p>      |



| Page 464   | Page 466  |
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| <p>1 Peter Shapiro<br/>2 MR. LAWRENCE: Sure.<br/>3 THE VIDEOGRAPHER: The time is<br/>4 2:38 p.m.; we are going off the<br/>5 record.<br/>6 (There was a discussion off the<br/>7 record.)<br/>8 (A break is taken.)<br/>9 THE VIDEOGRAPHER: The time is<br/>10 2:50 p.m.; we are back on the record.<br/>11 (Exhibit No. Shapiro 58, E-Mail<br/>12 chain, top E-Mail dated 7/14/10 from<br/>13 Peter Shapiro to Kim Herman; Subject:<br/>14 Washington TSA, Four-Page Document, No<br/>15 Bates numbers, is marked by the<br/>16 reporter for identification.)<br/>17 Q I am handing you a document<br/>18 that has been marked as Shapiro Exhibit 58,<br/>19 which I just realized does not have a Bates<br/>20 number on it. But was just produced by<br/>21 counsel to us.<br/>22 MR. LAWRENCE: Yes.<br/>23 MS. SAWYER: We can get the<br/>24 Bates number and --<br/>25 Q It is an E-Mail chain. The top</p> | <p>1 Peter Shapiro<br/>2 A Only from reading this.<br/>3 Obviously, I reflected that part of the<br/>4 conversation, and Kim reflected it very<br/>5 strongly.<br/>6 Q And Kim was outraged that the<br/>7 notion that he might have to pay Lehman<br/>8 something, correct?<br/>9 MR. LAWRENCE: Objection to the<br/>10 form.<br/>11 A I am just reading here the<br/>12 wording that he uses at the bottom of his<br/>13 July 14, 5:47 p.m. E-Mail. When he says<br/>14 "It will be a cold day in hell that we pay<br/>15 Lehman anything" does connote some degree<br/>16 of outrage.<br/>17 Q And do you -- you don't recall<br/>18 how the concept of TSA owing Lehman a<br/>19 termination payment arose -- if it was<br/>20 raised --<br/>21 A How.<br/>22 Q I mean, how did that come up in<br/>23 the conversation?<br/>24 A You know, I can't recall. It's<br/>25 clear from what's written here that Sandeep</p> |
| Page 465   | Page 467  |
| <p>1 Peter Shapiro<br/>2 E-Mail is dated July 14, 2010. It's a<br/>3 multi-page document. I will give you a<br/>4 chance to look through this.<br/>5 Do you recall this E-Mail<br/>6 exchange?<br/>7 A I do.<br/>8 Q What do you -- do you recall<br/>9 having discussions in addition to this<br/>10 E-Mail exchange?<br/>11 A I don't.<br/>12 Q And this E-Mail exchange seems<br/>13 to arise in connection with a call that<br/>14 Swap Financial and TSA had with Lehman in<br/>15 July of 2010; is that fair?<br/>16 A Part of it does deal with that.<br/>17 Yes.<br/>18 Q And do you recall that call<br/>19 that took place in July of 2010?<br/>20 A I don't recall the specific<br/>21 call.<br/>22 Q Okay. Do you recall during<br/>23 that discussion with Lehman in July of 2010<br/>24 Lehman raising the notion that TSA may owe<br/>25 it a termination amount?</p>                             | <p>1 Peter Shapiro<br/>2 raised it.<br/>3 Q And you respond to Mr. Herman<br/>4 by saying:<br/>5 "There is less than a zero<br/>6 chance that you will have to pay Lehman<br/>7 anything."<br/>8 Correct?<br/>9 A Yes.<br/>10 Q And why do you feel that?<br/>11 A Why do I feel that or why --<br/>12 Q Do you feel that's true?<br/>13 A Yes, given the fact that the<br/>14 Lehman estate has offered something more<br/>15 than zero and we are -- we are claiming<br/>16 something more than what they have offered.<br/>17 I don't think there is any way we get to<br/>18 zero.<br/>19 Q And so your statement made in<br/>20 the top of the E-Mail on Shapiro Exhibit 58<br/>21 is based upon the settlement proposal made<br/>22 by Lehman?<br/>23 A On the telephone call?<br/>24 Q Yes.<br/>25 A I don't think so.</p>   |

| Page 468   | Page 470  |
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| <p>1 Peter Shapiro</p> <p>2 Q So what is the basis of your</p> <p>3 conclusion that it's less than zero chance</p> <p>4 that TSA will have to pay Lehman anything?</p> <p>5 A That the contention -- that</p> <p>6 Lehman would have to -- that Washington</p> <p>7 would have to pay Lehman was so absurd</p> <p>8 that -- as to be almost laughable.</p> <p>9 Q What is the basis of your</p> <p>10 contention that it's "absurd"?</p> <p>11 A If you guys are saying your</p> <p>12 offer is 4 million, then, obviously, a</p> <p>13 contention that Washington should pay you</p> <p>14 is absurd.</p> <p>15 Q And so your recollection of the</p> <p>16 call was that there was an offer to pay --</p> <p>17 that -- that Lehman would pay Washington</p> <p>18 \$4 million?</p> <p>19 A No, my knowledge now because</p> <p>20 you were asking as of now.</p> <p>21 Q In July of 2010 --</p> <p>22 A Yes.</p> <p>23 Q -- there was a phone call with</p> <p>24 Lehman where apparently the notion was</p> <p>25 raised that Washington TSA might have to</p> | <p>1 Peter Shapiro</p> <p>2 to Lehman -- I'd say there is no chance</p> <p>3 that that would ever prevail.</p> <p>4 Q And what's the basis of your</p> <p>5 contention that it's an absurd -- absurd</p> <p>6 notion?</p> <p>7 A Based upon everything we know</p> <p>8 about value.</p> <p>9 Q Based upon your expertise?</p> <p>10 A Based upon expertise, knowledge</p> <p>11 of the markets, experience, understanding</p> <p>12 of that and the like. And, you know, if</p> <p>13 you look, you will see what I say here:</p> <p>14 "This is really just part of</p> <p>15 the negotiations."</p> <p>16 That is, we read this as a</p> <p>17 strategy by Lehman to try to scare the</p> <p>18 client.</p> <p>19 Q And in the second paragraph of</p> <p>20 your E-Mail at the first page of Shapiro</p> <p>21 Exhibit 58, you say in parentheses:</p> <p>22 "... and are, in fact, serving</p> <p>23 as expert witnesses on similar issue on a</p> <p>24 Federal court case unrelated to Lehman."</p> <p>25 A Correct.</p> |
| Page 469   | Page 471  |
| <p>1 Peter Shapiro</p> <p>2 pay Lehman something; is that correct?</p> <p>3 A No, there was a -- not that</p> <p>4 they might have to pay. No. There was --</p> <p>5 Q What --</p> <p>6 A There was an argument being</p> <p>7 made by a Lehman representative that he</p> <p>8 felt that fair value would be such that</p> <p>9 Washington TSA would have to pay.</p> <p>10 Q And that was raised in this</p> <p>11 July 2010 call?</p> <p>12 A According to this E-Mail chain.</p> <p>13 Q Okay. And also on that</p> <p>14 July 2010 call, was there an offer of</p> <p>15 settlement made by Lehman to settle the</p> <p>16 matter for \$4 million payable to</p> <p>17 Washington?</p> <p>18 A I don't see that.</p> <p>19 Q So what's the basis of your</p> <p>20 conclusion in July 2010 that there is a</p> <p>21 zero chance that TSA would have to pay</p> <p>22 Lehman anything?</p> <p>23 A It was such an absurd notion</p> <p>24 that the payment would go in that</p> <p>25 direction, in the direction from Washington</p>                         | <p>1 Peter Shapiro</p> <p>2 Q What court case were you an</p> <p>3 expert witness in connection with the</p> <p>4 arguments relating to the forward curve?</p> <p>5 A I was not the expert witness</p> <p>6 there. When I say "we," I am referring to</p> <p>7 the firm.</p> <p>8 Q And who was the witness?</p> <p>9 A Nat Singer.</p> <p>10 Q And what case was that?</p> <p>11 A I am trying to remember the</p> <p>12 name of it.</p> <p>13 Q Did Mr. Singer testify in</p> <p>14 court?</p> <p>15 A I can't remember how far along</p> <p>16 it got, you know, whether it settled. I am</p> <p>17 not remembering the details.</p> <p>18 MS. SAWYER: Okay. I would</p> <p>19 make a request for information</p> <p>20 regarding Mr. Singer's testimony, if</p> <p>21 there is any, related to the forward</p> <p>22 curve in that case.</p> <p>23 (Request for information</p> <p>24 regarding Mr. Singer's testimony</p> <p>25 related to the forward curve in other</p>  |

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| <p>1 Peter Shapiro<br/>2 case.)<br/>3 MR. LAWRENCE: Can you follow<br/>4 up with an E-Mail?<br/>5 MS. SAWYER: Yes, absolutely.<br/>6 Q Then in the next paragraph you<br/>7 say:<br/>8 "We made a small amount of<br/>9 progress in what I call quote etting the<br/>10 table" -- "etting," I think it's a typo,<br/>11 but e-t-t-i-n-g -- "for more serious<br/>12 discussions."<br/>13 What did you mean by that?<br/>14 A Yeah, I -- you know, it looks<br/>15 like there was something wrong in the<br/>16 printing of this because there are multiple<br/>17 places where first letters are dropped.<br/>18 You know, so that is obviously "setting the<br/>19 table."<br/>20 What did I mean by we made<br/>21 progress in "setting the table"?<br/>22 Q Yes.<br/>23 A That we, you know, got the<br/>24 discussion going in terms of what the<br/>25 spread should be. As you'll see in the</p>   | <p>1 Peter Shapiro<br/>2 MS. SAWYER: Um-hum.<br/>3 A I have got it in front of me.<br/>4 Q And this has a -- it says it<br/>5 was entered at, what, July 14, 2010; do you<br/>6 see that?<br/>7 A Yes.<br/>8 Q And it has the analysis being<br/>9 done of a spread to LIBOR -- two spreads to<br/>10 LIBOR, a minus 3.874 and a minus 20 basis<br/>11 points; do you see that?<br/>12 A Yes.<br/>13 Q And looking at Shapiro<br/>14 Exhibit 56 -- 58, the E-Mail we were just<br/>15 looking at, does that help you understand<br/>16 why those two spreads to LIBOR were being<br/>17 analyzed on July 14, 2010?<br/>18 A If we looked back at the<br/>19 numerous exhibits you gave me on the<br/>20 Principia screen shots, is that the first<br/>21 time that the minus 20 emerges?<br/>22 Q It is not.<br/>23 A It's not. So a minus 20 was<br/>24 used earlier?<br/>25 Q Yes.</p>  |
| Page 473   | Page 475  |
| <p>1 Peter Shapiro<br/>2 prior paragraph, I said:<br/>3 "I asked the same question with<br/>4 different wordings about ten times before I<br/>5 got a direct answer."<br/>6 That implies that I did after<br/>7 asking enough times get a direct answer, so<br/>8 we made some progress.<br/>9 Q And you finally did get a sense<br/>10 of what the spread to LIBOR that Lehman<br/>11 believed would be merited -- was "merited"?<br/>12 A It says here:<br/>13 "He said what spread to LIBOR<br/>14 he believed would be merited."<br/>15 Q And when -- the "he" is<br/>16 referring to one of the Lehman<br/>17 representatives on the call?<br/>18 A It looks like it's referring to<br/>19 Sandeep because he's the only person that<br/>20 is referred to in that paragraph by name.<br/>21 Q And if you look at Shapiro<br/>22 Exhibit 55, which is the version 13 of the<br/>23 screen shots.<br/>24 A Yes.<br/>25 MR. LAWRENCE: 55, you said.</p> | <p>1 Peter Shapiro<br/>2 A Okay. So then it's probably<br/>3 not a good conclusion to assume that --<br/>4 that that minus 20 emerged in that call.<br/>5 Q And do you have any<br/>6 recollection as to the spread to LIBOR that<br/>7 Lehman communicated in that call in July of<br/>8 2010?<br/>9 A No.<br/>10 Q And if you don't reach the<br/>11 conclusion that the minus 20 reflected in<br/>12 Shapiro Exhibit 56 -- 55 came from Lehman,<br/>13 do you have any idea where that valuation<br/>14 came from?<br/>15 A Which valuation?<br/>16 Q That spread to LIBOR came from?<br/>17 A The minus 20 that shows up in<br/>18 55?<br/>19 Q Yes.<br/>20 A You know what, we would have to<br/>21 -- I don't know. You have asked me that<br/>22 before, where it came from, and I don't<br/>23 know. You know, I think you just said<br/>24 earlier you believed the minus 20 showed up<br/>25 earlier, which I am looking.</p> |

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| <p>1 Peter Shapiro<br/>2 It shows up in 54. And it<br/>3 probably shows up numerous other times if<br/>4 we retrace the discussion we have already<br/>5 had to today. It shows up in 53, which<br/>6 was, you know, again June 23rd --<br/>7 June 22nd, which is Exhibit 52.<br/>8 It looks like probably shows up<br/>9 there, too. These pages, it shows up<br/>10 there, too. So, obviously, it emerged<br/>11 prior to this call.<br/>12 Q Did Swap Financial do any<br/>13 analysis as to the valuation for the spread<br/>14 to LIBOR disclosed by Lehman on this<br/>15 July 14, 2010, call?<br/>16 A Did we do an analysis based<br/>17 on -- and the spread, which I am saying I<br/>18 don't know -- on this call? I can't tell<br/>19 you that.<br/>20 Q So Lehman --<br/>21 A I don't even know what the<br/>22 spread was. I can't tell from this.<br/>23 Q But Lehman gave you a spread to<br/>24 LIBOR number. But you don't recall whether<br/>25 or not Swap Financial tried to analyze that</p> | <p>1 Peter Shapiro<br/>2 BY MR. LAWRENCE:<br/>3 Q If you could look at Shapiro<br/>4 41, your notes, it's your note, not<br/>5 Principia.<br/>6 A Back before all of this pretty<br/>7 color printing.<br/>8 MS. SAWYER: I will just<br/>9 reiterate your objection to this use<br/>10 of the exhibit.<br/>11 MR. LAWRENCE: Well, you<br/>12 already used. It's too late.<br/>13 Q It's a simple question when you<br/>14 get there.<br/>15 A Yes, I am working my way back<br/>16 there. 42.<br/>17 Q There it is.<br/>18 A Bingo.<br/>19 Q If you look at the page stamped<br/>20 2315, a notation about a July 14, 2010,<br/>21 call with LB; do you see that?<br/>22 A Yes.<br/>23 Q That's a call you've been --<br/>24 were asked about with respect to Lehman 58?<br/>25 A Lehman 58 is the one we just</p>  |
| Page 477   | Page 479  |
| <p>1 Peter Shapiro<br/>2 to determine the value that correlated with<br/>3 that?<br/>4 A So all I can tell you for sure<br/>5 is we finally got a little bit of one, and<br/>6 when he said what spread to LIBOR he<br/>7 believed would be merited.<br/>8 Q My question is --<br/>9 A I don't know what that number<br/>10 was, and I don't know if we took his number<br/>11 and ran some analysis based on it. It's<br/>12 clear from everything I say in this memo to<br/>13 Bob that we didn't think that was the final<br/>14 number we would be looking at.<br/>15 Q Do you recall whether or not<br/>16 Swap Financial did any analysis of the<br/>17 spread to LIBOR number provided by Lehman<br/>18 in the July 2010 call?<br/>19 A No.<br/>20 MS. SAWYER: I don't have any<br/>21 further questions.<br/>22 MR. LAWRENCE: I have one.<br/>23 (There was a discussion off the<br/>24 record.)<br/>25 CROSS EXAMINATION</p>  | <p>1 Peter Shapiro<br/>2 finished discussing it?<br/>3 Q Yes.<br/>4 A It looks like that, yes. You<br/>5 know, it has to be the same call. There<br/>6 can't have been two large calls involving<br/>7 Washington Tobacco, the Lehman cast of<br/>8 characters.<br/>9 So that's -- that's obviously<br/>10 notes on that call, so it may be worth it<br/>11 just to read that over.<br/>12 Q Well, I just wanted to confirm<br/>13 that. If you want to follow up on that,<br/>14 that's fine. Otherwise, you don't have to<br/>15 bother to read it.<br/>16 REDIRECT EXAMINATION<br/>17 BY MS. SAWYER:<br/>18 Q Does it refresh your<br/>19 recollection that the spread to LIBOR<br/>20 disclosed by Lehman was either 48 basis<br/>21 points positive or 130 basis points<br/>22 positive?<br/>23 A That's what it looks like.<br/>24 Q And did Swap Financial ever<br/>25 analyze the corresponding termination</p> |

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| <p>1 Peter Shapiro</p> <p>2 amounts that would be resulting from</p> <p>3 assuming a spread to LIBOR of positive 48</p> <p>4 basis points?</p> <p>5 A I -- my guess is we didn't,</p> <p>6 that we found it was so absurd. And you</p> <p>7 are not seeing -- there's no -- nothing</p> <p>8 that has been in any of the production with</p> <p>9 spreads that were like that, positive</p> <p>10 spreads to forty -- you know, plus 48 or</p> <p>11 plus 130.</p> <p>12 Q So you don't think Swap</p> <p>13 Financial ever determined termination</p> <p>14 amounts that corresponded to those spreads</p> <p>15 to LIBOR?</p> <p>16 A I don't think so.</p> <p>17 MS. SAWYER: I don't have any</p> <p>18 further questions.</p> <p>19 THE VIDEOGRAPHER: Anything</p> <p>20 further, Counsel?</p> <p>21 MR. LAWRENCE: That's it.</p> <p>22 (There was a discussion off the</p> <p>23 record.)</p> <p>24 THE VIDEOGRAPHER: The time is</p> <p>25 3:07 p.m., October 16, 2014. This</p> | <p>1</p> <p>2 J U R A T</p> <p>3</p> <p>4 I DO HEREBY CERTIFY that I have</p> <p>5 read the foregoing transcript of my</p> <p>6 deposition testimony.</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11 SWORN TO AND SUBSCRIBED</p> <p>12 BEFORE ME THIS</p> <p>13 DAY OF 2014</p> <p>14 -----</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> |
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| <p>1 Peter Shapiro</p> <p>2 completes the videotaped deposition of</p> <p>3 Mr. Peter Shapiro.</p> <p>4 (Deposition adjourned, 4:29.)</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>   | <p>1</p> <p>2 I N D E X</p> <p>3</p> <p>4</p> <p>5 WITNESS DIRECT CROSS</p> <p>6</p> <p>7</p> <p>8 PETER SHAPIRO</p> <p>9</p> <p>10</p> <p>11 BY MS. SAWYER 259, 479</p> <p>12</p> <p>13</p> <p>14</p> <p>15 BY MR. LAWRENCE 478</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>  |

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| <p>1</p> <p>2 DOCUMENTS REQUESTED</p> <p>3</p> <p>4 Documents, MS Quote Sheets, 397<br/>requested</p> <p>5</p> <p>6 Request for information regarding 471<br/>Mr. Singer's testimony related to<br/>the forward curve in other case</p> <p>7</p> <p>8</p> <p>9</p> <p>10 E X H I B I T S</p> <p>11 NUMBER DESCRIPTION PAGE</p> <p>12</p> <p>13 Exhibit No. Shapiro 32, E-Mail 260<br/>chain, top E-Mail dated 1/9/09<br/>from Bob Cook to Peter Shapiro,<br/>Subject: TSA, Bates Nos. TSA<br/>42725 to 42727</p> <p>14</p> <p>15 Exhibit No. Shapiro 33, 277<br/>Memorandum dated 12/22/09 from<br/>Peter Shapiro to Tobacco<br/>Settlement Authority, Bob Cook,<br/>Subject: Reserve Fund Agreement<br/>Advisory Services, Scope of<br/>Services, Bates Nos. TSA 42818 to<br/>42819</p> <p>16</p> <p>17</p> <p>18 Exhibit No. Shapiro 34, E-Mail 295<br/>chain, top E-Mail dated 2/23/09<br/>from Bob Cook to Peter Shapiro,<br/>cc to James Vergara and Debra<br/>Stephenson, Subject: Lehman,<br/>Bates Nos. TSA 42624 to 42626</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>   | <p>1</p> <p>2</p> <p>3 Exhibit No. Shapiro 41, Word 364<br/>Document, Notes taken by Mr.<br/>Shapiro, Bates Nos. SFG 2314 to<br/>2318</p> <p>4</p> <p>5</p> <p>6 Exhibit No. Shapiro 42, E-Mail 397<br/>dated 5/24/11 from Carol Johnson<br/>to Kim Herman, Bob Cook, Subject:<br/>TSA -- Lehman Brothers, TSA<br/>Reserve Agreement Investments and<br/>Status Review with Peter Shapiro,<br/>Bates No. TSA 42744</p> <p>7</p> <p>8</p> <p>9</p> <p>10 Previously Marked Exhibit No. 400<br/>Shapiro 6, 11/16/11 Memorandum<br/>from Peter Shapiro to Bob Cook<br/>and Carol Johnson, Bates Nos. TSA<br/>38481 to 38484</p> <p>11</p> <p>12</p> <p>13 Exhibit No. Shapiro 43, Version 1 405<br/>Screen Shot from Principia<br/>Software, Bates Nos. SFG 2394 to<br/>2395</p> <p>14</p> <p>15 Exhibit No. Shapiro 44, Version 2 421<br/>Screen Shot from Principia<br/>Software, Bates Nos. SFG 2396 to<br/>2397</p> <p>16</p> <p>17</p> <p>18 Exhibit No. Shapiro 45, Version 3 423<br/>Screen Shot from Principia<br/>Software, Bates Nos. SFG 2398 to<br/>2399</p> <p>19</p> <p>20 Exhibit No. Shapiro 46, Version 4 428<br/>Screen Shot from Principia<br/>Software, Bates Nos. SFG 2400 to<br/>2401</p> <p>21</p> <p>22</p> <p>23 Exhibit No. Shapiro 47, Version 5 428<br/>Screen Shot from Principia<br/>Software, Bates Nos. SFG 2402 to<br/>2403</p> <p>24</p> <p>25</p> |
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| <p>1</p> <p>2</p> <p>3 Exhibit No. Shapiro 35, E-Mail 296<br/>chain, top E-Mail dated 3/4/09<br/>from Bob Cook to Peter Shapiro,<br/>Subject: Lehman, Washington<br/>State TSA, Bates Nos. TSA 42713<br/>to 42715</p> <p>4</p> <p>5</p> <p>6 Exhibit No. Shapiro 36, 301<br/>Memorandum dated 3/30/09 to Bob<br/>Cook from Peter Shapiro, Subject:<br/>Valuation of TSA's RFA with<br/>Lehman, Bates Nos. SFG 2349 to<br/>2350</p> <p>7</p> <p>8</p> <p>9</p> <p>10 Exhibit No. Shapiro 37, E-Mail 316<br/>chain, top E-Mail dated 4/20/09<br/>from Peter Shapiro to James<br/>Vergara, Subject: TSA memo,<br/>Bates Nos. SFG 2370 backwards to<br/>2369, including 2371 and 2368</p> <p>11</p> <p>12</p> <p>13 Exhibit No. Shapiro 38, E-Mail 324<br/>with attachment, E-Mail dated<br/>4/21/09 from James Vergara to<br/>Peter Shapiro, Subject: TSA Loss<br/>Calc, Bates Nos. SFG 2381 to 2384</p> <p>14</p> <p>15</p> <p>16</p> <p>17 Previously Marked Exhibit No. 338<br/>Lehman 15, 4/21/09 Memorandum<br/>from Peter Shapiro, James Vergara<br/>to Bob Cook, Concerning:<br/>Calculation of Loss, Bates Nos.<br/>TSA 21616 to 21618</p> <p>18</p> <p>19</p> <p>20 Exhibit No. Shapiro 39, Claim 343<br/>Amount Document, Bates No. SFG<br/>2348</p> <p>21</p> <p>22 Exhibit No. Shapiro 40, E-Mail 356<br/>chain, top E-Mail dated 8/23/10<br/>from Nathaniel Singer to Peter<br/>Shapiro and Lilian Chern,<br/>Subject: Tobacco, Bates No. SFG<br/>2352</p> <p>23</p> <p>24</p> <p>25</p> | <p>1</p> <p>2</p> <p>3 Exhibit No. Shapiro 48, Version 6 429<br/>Screen Shot from Principia<br/>Software, Bates Nos. SFG 2404 to<br/>2405</p> <p>4</p> <p>5</p> <p>6 Exhibit No. Shapiro 49, Version 7 430<br/>Screen Shot from Principia<br/>Software, Bates Nos. SFG 2406 to<br/>2408</p> <p>7</p> <p>8 Exhibit No. Shapiro 50, Version 8 438<br/>Screen Shot from Principia<br/>Software, Bates Nos. SFG 2409 to<br/>2411</p> <p>9</p> <p>10</p> <p>11 Exhibit No. Shapiro 51, Version 9 440<br/>Screen Shot from Principia<br/>Software, Bates Nos. SFG 2412 to<br/>2414</p> <p>12</p> <p>13 Exhibit No. Shapiro 52, Version 442<br/>10 Screen Shot from Principia<br/>Software, Bates Nos. SFG 2415 to<br/>2417</p> <p>14</p> <p>15</p> <p>16 Exhibit No. Shapiro 53, Version 443<br/>11 Screen Shot from Principia<br/>Software, Bates Nos. SFG 2418 to<br/>2420</p> <p>17</p> <p>18 Exhibit No. Shapiro 54, Version 445<br/>12 Screen Shot from Principia<br/>Software, Bates Nos. SFG 2421 to<br/>2422</p> <p>19</p> <p>20</p> <p>21 Exhibit No. Shapiro 55, Version 446<br/>13 Screen Shot from Principia<br/>Software, Bates Nos. SFG 2424 to<br/>2426</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>  |

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Exhibit No. Shapiro 56, Principia 449  
Screen Shot: Termination Date  
2042, Market Value as of 3/25/09,  
Bates Nos. SFG 2388 to 2389

Previously Marked Exhibit No. 456  
Lehman 12, Declaration of Peter  
Shapiro, Bates Nos. LBHI WTSA  
16384 to 16389

Exhibit No. Shapiro 57, E-Mail 457  
chain, top E-Mail dated 4/30/12  
from Peter Shapiro to Carol  
Johnson and Lilian Chern;  
Subject: TSA -- Lehman Call  
Today, Bates Nos. SFG 2322 to  
2324

There was an instruction not to 460  
answer.

Exhibit No. Shapiro 58, E-Mail 464  
chain, top E-Mail dated 7/14/10  
from Peter Shapiro to Kim Herman;  
Subject: Washington TSA,  
Four-Page Document, No Bates  
numbers

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CERTIFICATE

I, TAB PREWETT, A Registered  
Professional Reporter, Notary Public,  
Certified LiveNote Reporter, and Certified  
Shorthand Reporter, do hereby certify that  
prior to the commencement of the  
examination PETER SHAPIRO was sworn by the  
notary public to testify the truth, the  
whole truth and nothing but the truth.

I DO FURTHER CERTIFY that the  
foregoing is a true and accurate transcript  
of the testimony as taken stenographically  
by and before me at the time, place and on  
the date hereinbefore set forth.

I DO FURTHER CERTIFY that I am  
neither a relative nor employee nor  
attorney nor counsel of any of the parties  
to this action, and that I am neither a  
relative nor employee of such attorney or  
counsel, and that I am not financially  
interested in the action.

\_\_\_\_\_  
Notary Public

My Commission expires February 9, 2019  
Dated: October 19, 2014

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